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PRINCIPLES
OF
LEGISLATION:

FROM THE MS. OF
JEREMY BENTHAM;
BENCHER OF LINCOLN'S INN.

BY M. DUMONT,
MEMBER OF THE REPRESENTATIVE AND SOVEREIGN COUNCIL OF
GENEVA.

TRANSLATED FROM THE SECOND CORRECTED
AND ENLARGED EDITION ;

WITH NOTES AND A BIOGRAPHICAL NOTICE OF JEREMY BENTHAM
AND OF M DUMONT.

BY JOHN NEAL.

BOSTON:
WELLS AND LILLY—COURT-STREET.
G. & C. & H. Carvill, and E. Bliss, New York ; E. L. Carey & A.
Hart, Philadelphia ; W. & J. Neal, Baltimore ; P. Thompson, Wash-
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1830.

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"Principles of Legislation: From the MS. of Jeremy Bentham, Benchet of Lincoln's Inn. By M. Dumont, Member of the Representative and Sovereign Council of Geneva. Translated from the second corrected and enlarged edition; with notes and a biographical notice of Jeremy Bentham and of M. Dumont. By John Neal."

In conformity to the Act of the Congress of the United States, entitled "An Act for the encouragement of Learning, by securing the Copies of Maps, Charts and Books, to the Authors and Proprietors of such Copies, during the times therein mentioned;" and also to an Act, entitled, "An act supplementary to an Act, entitled An Act for the encouragement of Learning, by securing the Copies of Maps, Charts and Books, to the Authors and Proprietors of such Copies during the times therein mentioned; and extending the Benefits thereof to the Arts of Designing, Engraving, and Etching Historical and other Prints."

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LIBRARY OF THE
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SCIENCE

PREFACE.

HAVING a two-fold object in view, the work herewith submitted to my countrymen is in two parts. By the first, which is nothing more than a familiar biographical sketch, they are brought acquainted with the *man* Jeremy Bentham: by the last, which may be regarded as an abridgment of his whole system of philosophy, with the Philanthropist, the Lawgiver, and the Statesman.

Of the biographical sketch referred to, which precedes the following translation of his celebrated work on MORALS and LAW, by M. Dumont of Geneva, a small part has already appeared in the *Yankee* and other journals of our country; the remainder is entirely new. The whole of the second part has been carefully reviewed and compared with the originals, paragraph by paragraph.

The readers (and the *writers*) of the *Edinburgh Quarterly*, *Westminster* and *North American Reviews*, will now have what they never have had before—an opportunity of knowing the truth and the whole truth about the character

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and opinions, the philosophy and the faith of a man, whose followers—the calumniated Utilitarians—are now so numerous and so powerful, as to be reckoned a *party* in the British empire.

I have concealed nothing—palliated nothing—I have neither softened nor exaggerated the facts. And though a Utilitarian myself, a hearty disciple of Jeremy Bentham the philosopher and the lawgiver, and somewhat of a Radical, I profess to belong to no *party* either in politics or religion, to be of no *sect* either in belief or practice, and to have no sort of regard for Jeremy Bentham's theology.

They who misrepresent the character of the party alluded to, that of their venerable founder, and the objects and opinions of both, do it generally from ignorance or misapprehension, though sometimes with a political view. By the Tories the Utilitarians are judged of, as Radicals—their leader as the high-priest of the Radicals. With the whigs it is pretty much the same. They are perpetually confounded together; perpetually mistaken for each other, and always treated as a common adversary by the leading writers and chief statesmen of the day: notwithstanding which, there are thousands of Radicals—yea, tens of thousands, who know nothing of the Utilitarians or of their belief, and thousands of Utilitarians who never had any thing to do with *any* political party whatever.

I may be, and I dare say shall be, blamed by both for what I have published here. The Utilitarians will say that I have betrayed *them*, by betraying their founder's religious belief, or want of religious belief: as if it were not high time for the whole truth to appear, now that so many falsehoods are about; as if toleration could ever be *expected* where it was not manfully and bravely *insisted on*; as if the follower of Jeremy Bentham's philosophy with regard to man, should be therefore a follower of his theology, or want of theology, with regard to the Builder of the Universe, the Great God of Heaven and Earth—Jehovah. But while one party do this, the other, the unreasoning multitude, the Non-Utilitarians may charge me with being an atheist myself, because I will not suffer even avowed atheism to deter me from acknowledging worth wherever I see it, nor from following truth in whatever shape it may appear. Be it so. What I have done, I have done conscientiously, and I shall not shrink from the consequences. The truth and the *whole* truth was wanted on both sides of the water, and here as much as there. But who should speak it? Those who could, would not; and those who would, could not. None but a professed and avowed Utilitarian could reveal the truth, and such Utilitarians were afraid. Believing as I do, that good may come out of Nazareth, I have not scrupled to acknowledge every thing that stands in its way, every drawback, every shadow, every fault, every ground of prejudice.

J. N.

Portland, April 1, 1830.

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PRINCIPLES OF LEGISLATION.

CHAPTER I.

JEREMY BENTHAM.

HIS GENERAL CHARACTER.

FOR more than half a century the labours of JEREMY BENTHAM have been before the English, and the readers of English in every part of the world.(1) And yet, up to this hour, though extraordinary changes have lately occurred, and though his avowed followers are now to be found in every part of Europe and throughout both Americas, and always among the more inquisitive, the more thoughtful, and the better-educated of their country, the views and objects of no man perhaps were ever so generally misunderstood, or so strangely or so safely misrepresented.(2)

Things are said of him and of his works, every day, and by the first men of the age, who are believed by the multitude to be familiar with both, and whose judgments go abroad therefore with the solemnity of decrees, though full of mischief and error—things which have no foundation whatever in truth. Opinions that he never entertained in his life; theories that he has been waging war with for full fifty

(1) His first work appeared in 1776. See the list published, commencing page 27.

(2) See the North-American Review for Jan. 1828.

years, are attributed to him in works of authority, as the very foundation of that stupendous pile, which, after a long life of solitary labour, of discouraging, incessant, unassisted enquiry, he has now built up so high and spread out so far, and fortified with such magnificent proportions, that the rulers and lawgivers of the earth cannot overlook it, and will not be suffered to pass it by; for the eyes of the people are beginning to be turned upon it and upon them, throughout both hemispheres, with a holy determination to know the truth hereafter, and to enquire, each man for himself, into the great principles of legislation. They are growing weary of law, wherever law is not upon the very face of it, reason. They are no longer satisfied, they never will be satisfied again, it is to be hoped, with arbitrary usage, or avowed mystery in the business of rule. They are tired of making bricks without straw—of adopting faith after faith, in political as in religious life, at the bidding of authority. In a word, they are beginning to feel their strength, to interrogate the powers that be, to think highly of *themselves*, to believe that they are worth reasoning with, and that however *we* may argue or philosophize, *they* are in fact the high court of appeal for the governing and the governed; for judges and for legislators; the ultimate sovereign power to which every other power must yield, whenever a matter comes fairly to issue before them, either in the trial-place of nations—the field of death; or at the bar of nations—the public-opinion tribunal.

But the perversity and error to which I have alluded, as now distinguishing those, who ought to be familiar with every work of their great countryman, will not be thought so very strange, perhaps, when we recollect that of what he has written, hardly a fourth part in bulk, and perhaps not a fiftieth part in value, has ever appeared in the native language of the author; that until within a very few years, the most

valuable of his works were not only unknown to the great body of English every where, but actually unheard of by his next-door neighbours, and by most of the lawgivers of the British empire, except through an occasional newspaper-paragraph, or a Quarterly sneer at the ballot-boxes, the unintelligible language, or the more unintelligible theory they were supposed to conceal. And this, while they were to be found in every public library of Europe, out of the author's own country—and upon the table of every statesman, jurist, or philosopher of the continent; *this*, after nearly ten thousand copies of one work in three large octavo volumes, and nearly as many more of several other works by the same author, had been rescued by a foreigner from a heap of neglected manuscripts—a treasury of wisdom—a store-house of wonderful thought—worked over into French, published at Paris—re-translated, and republished in four or five other languages, and circulated in chapters throughout every quarter of the globe—the north striving with the south, the new world with the old, to give them simultaneous publicity; and the whole being regarded every where, except in the immediate neighbourhood of the author, among his fellow-countrymen, or among those who speak the same language, as by far the most profound, extraordinary and useful work of the age.

Dr. Parr used to say, and I might mention several more, that since the *Novum Organum* appeared, there had been nothing in the history of the human mind to compare with the Principles of Morals and Legislation (this very work) by Jeremy Bentham. Yet the doctor was no friend of the author. All their pursuits in life were different, all their studies, all their prejudices and partialities, even their politics and their language. They were acquainted, and that was all. No two men ever pitied each other more. The doctor abominated the *style* of Bentham; and Bentham

believed the doctor to be incapable of understanding the *subject-matter*.

It is very true that the style of Mr. Bentham now, is involved and peculiar; *now*, I say, because at an earlier period, when he wrote his Fragment on Government, in reply to Blackstone, and his celebrated work on Usury, it was thought remarkable for strength, purity, and ease. But the subjects now handled by Mr. Bentham, are as different from those then treated of, as are the problems of Euclid, or the doctrines of the Principiä, from the elements of arithmetic. Then, he might be allowed to *talk* on paper—to lay down what he had to say, without fear of being misunderstood or misquoted. But now, it would be neither safe nor wise for him to do so. His propositions are startling enough, though accompanied with all their neutralizing qualifications and exceptions. A period now is not a period merely, nor a paragraph, nor a page—but a problem. Hence the difficulty of his language now. They who are not acquainted with his earlier works, who have not followed him, through abridgment after abridgment of the same views, till what was once a large book, has been reduced to a chapter and then to a table, or it may be to a phrase, cannot well understand his English, and for that reason ought never to sit in judgment upon his works. But they may read him in French with safety. M. Dumont has made his chief mysteries intelligible; and it is to M. Dumont therefore that we should ascribe the growing popularity of Mr. Bentham among his own people. Compare the English quarto, entitled, “Introduction to the principles of Morals and Legislation,” and published in 1789, with M. Dumont’s abridgment of the same work. One is a severe and almost unprofitable study, except to the prepared and thoroughly-disciplined, while the other is a beautiful and eloquent work, which almost any body might read with pleasure. But after you have gone

through with the French author, and made yourself master of the outlines, if you go back to the English, it will be with a fervency and relish that in most cases, will keep you there. I never knew any body satisfied with Bentham till he had become acquainted with Dumont; nor any body that ever went back to the original, who could afterwards endure the translation. By this, I do not mean to speak lightly of the latter—for, after all, it is to the translator that the men of Europe are now indebted for all they know of Jeremy Bentham; and it is *by* the translator that posterity will be made familiar with him. No—not familiar. I should not say this—for M. Dumont had nothing to do with the *man*. It was the lawgiver and the philosopher that he dealt with; and if no other were to follow, and give society a portrait of Jeremy Bentham, *as he is*—with all his power and weakness, amazing wisdom and child-like simplicity, his breadth and his depth, in the every-day business of life, most of the errors that prevail now with regard to him and his views, might prevail forever.

It is not enough to know that Jeremy Bentham was born “the 14-5 Feb. 1747-8,” to give the fact from his own mouth in his own way; that he is therefore at this time upwards of fourscore and two, and like Lear ‘mightily abused;’ that for many years, the codifying-project, the style, the involved sentences of the philosopher, which have been rather happily compared to a nest of pill-boxes, and the strange words invented by him, which though expressive and powerful enough when rightly explained, (3) are unintelligible to the careless or the uninitiated, have been a subject of raillery or abuse with almost every magazine-writer and speech-maker of England;

(3) Some of these words are in general use now as a part of our language—*international* for instance; it originated with him. *Codification* is another, with its *derivatives* and *cognates*. But others are not very likely to be adopted—the verb to re-un-certainize for example; which means, being interpreted, *to make-uncertain-again*.

that till the year 1824, when the following paragraph appeared in Blackwood, Mr. Bentham had never been respectfully mentioned by any of the British journals, except the Edinburgh Review, (4) though they were in the habit of alluding both to his works and himself continually, as if well acquainted with both: "Setting aside John Locke's Constitution for North Carolina, and Jeremy Bentham's conundrums in legislation, to speak reverently of what we cannot speak irreverently of, *a truly great and incomprehensible mind, whose thoughts are problems, and whose words—when they are English—miracles,*" (5) the author of which had never seen Mr. Bentham, and knew him only through a part of his works and the general misrepresentation of others. Nor is it enough to know that a mighty change has been wrought within a very few years, and that he is beginning to be regarded now by the greatest of his fellow-countrymen, as by far the most extraordinary man alive. Something more familiar must be had, something in the nature of a portrait, whereby others may be made acquainted, not merely with the Lord Bacon of our age, the great high-priest of legislation, the chief among lawgivers; but with the *man* Jeremy Bentham.

Such a portrait is now to be attempted for the lovers of such biography. It will be for them to say whether a magnificent picture, which, by resembling every body, would be a *portrait* of nobody, is worthier of admiration. It may be wanting in dignity—I hope it may—but of this the reader may be sure: whatever it wants in dignity shall be made up in truth; and in such truth too as will soon be sought after with deep solicitude, not only here, and in the country of our philosopher, but throughout the whole earth.

After a few preliminary observations, I shall take

(4) In the Edinburgh Review, No. 57, p. 237, mention is made of Mr. B. by Sir Samuel Romilly; one of his most distinguished and enthusiastic disciples.

(5) Blackwood, Dec. 1824, p. 649.

up a body of memoranda, now lying before me, which were made every night, and before I slept, after we had passed the evening together, and transfer them, with as little change as possible, directly to these pages. They, therefore, who wish to be acquainted with the lawgiver and the philosopher, and with him only, need not throw away one single hour upon this part of the book, which is intended for such, and for such only as care to be acquainted with the man, but proceed forthwith to the second part, where Bentham and Dumont are occupied with the great business of morals and legislation.

The followers of Mr. Bentham, disciples they might be called, for take them together, there is not such another body of sober enthusiasts and thorough-going devotees alive, are multiplying on every side of him now, in a part of his country, where five years ago his name was never alluded to, his works never mentioned, but with ridicule and reproach. A Quarterly Review has been established by him; (6) several of his neglected manuscripts have been dug out of his "work-shop," and given to the world in pretty good English, though most of them were left to the editorship of inexperienced writers, or still more inexperienced thinkers; (7) changes that he predicted years

(6) The Westminster Review, of which Mr. John Bowring and Mr. Henry Southern were the editors—both well qualified for the superintendence of a lighter and more agreeable work; but in every way disqualified for that of a Quarterly Review. They were supplied for a time, however, by a club of Utilitarians, of which Mr. Mill the father and Mr. Mill the son, both capital fault-finders, Mr. George Grote, the banker, Mr. Parke, the 'Solicitor of Warwickshire,' alluded to by Mr. Brougham in his celebrated speech on the State of English Law, Mr. I. and Mr. C. Austin, Mr. Hill, and Mr. Bingham, the barristers, and a few more, did all the thinking, while the editors did all the talking and proof-reading.

(7) Mr. Bowring edited the pamphlet called "*Observations on the Commercial System*," published at London, 1821. Mr. George Grote, the banker, (a writer of great zeal, strength, and acuteness) a work of 140 pages, octavo, on *Natural Religion*, published under the name of Philip Beauchamp. London, 1822. Mr. Richard Doane, private secretary of the Author, a mere boy at the time, but clever, his *Not Paul but Jesus*, a theological work in 400 pages, octavo, with tables, published under the borrowed name of Gamaliel Smith. London, 1823. Mr. Bingham, the reporter, the *Book of Fallacies*, published in 1824, in 411 pages octavo, and reviewed in a masterly manner,

and years ago, have occurred in the political faith of his chief countrymen; the British parliament has felt and acknowledged his influence through her principal ministers, and ablest orators, and wisest lawgivers; and what more than any thing else, may have contributed to the removal of the ban of the empire, the people of the *Edinburgh-Review*, and even those of the *Quarterly*, have had the courage to read here and there a chapter of his lighter works, and to pronounce judgment thereon, without much regard to the reputation of the author, as the head of a dangerous political party. (8)

Notwithstanding the change that has taken place however, such is the retired life that Mr. Bentham has lived for nearly half a century, at what he calls the hermitage of Queen-square-Place, never going abroad except for a walk in the fresh air, never seeing any body but his house-keeper and secretary till the business of the day is over; enduring no visits either of ceremony or curiosity, friendship or business, except when they refer to the subject-matter he is dealing with; encountering not so many as half a score of strangers in a twelve-month, nor ever more than one at a time; that, as to the public of his country, they know nothing about him,—for his next-door neighbours hardly know him by sight; and as to the public men of his country, who are in the habit of tel-

by the Rev. Sydney Smith, in the *Edinburgh Review*, No. LXXXIV. Mr. John Mill, a youth of twenty-one, the great work, entitled *Rationale of Evidence*, in five large octavos, also reviewed in the *Edinburgh*, No. XCVI. Mr. George Bentham, his nephew, the *Outlines of a New System of Logic*, a volume of 288 pages octavo. And of the distinguished men alluded to above, all statesmen, orators, and writers, Sir Samuel Romilly, Sir Francis Burdett, Mr. Brougham, Mr. Peel, and Mr. Canning, may be mentioned as either avowed or secret followers of Mr. Bentham. The first was a devotee; the second either a believer or not a believer, as he happened to be or not to be, within the reach of his Gamaliel; the third a hearty and earnest follower in his great plan of reform, for which he was frequently upbraided; the fourth, a secret disciple, and the fifth a fellow-labourer in the very constitution of his mind, so large and liberal was it, so ready to regard the whole earth as one great brotherhood of nations.

(8) The last numbers of the *Edinburgh* contain papers on the subject of *Utilitarian logic and politics*. See No. XCVII., XCVIII., XCIX., &c.

ling, believing, and vouching for a thousand strange stories about the *Philosopher*, as they call him—there are not forty, I do believe, that ever saw his face.

The Blackwood-writers know nothing at all of him; the writers of the *Edinburgh* and *Quarterly Reviews* not much; and they who do know him, the chief writers of the *Westminster Review*, being his disciples and followers rather in secret than openly, dare not deal with him as they would with a stranger, who had written a fiftieth part as much or as well; they seldom or never speak of him—aware that if they did, no attention would be paid to what they might say in his favour. With the exception of a review of ‘Swear Not,’ by Dr. Macculloch the geologist, a review of Mr. Humphreys by the philosopher himself, a reply to the *Edinburgh Review* on the subject of the *Rationale of Evidence*, and another, on that of the greatest-happiness principle, I do not remember that Mr. Bentham is ever mentioned in the *Westminster Review*. Like Mr. Mill, the author of *British India*, who is indebted to Mr. Bentham for the very groundwork, and for the best part of the materials of his own reputation, having borrowed largely from him in almost every chapter of that very work, and the whole of what concerns the trial of Warren Hastings, without acknowledgment, (9)—most of those writers are too politic and selfish to do justice to a benefactor, where it could only be done by betraying themselves. Were they to send others to the mine, out of the very dust of which they have gathered enough to make them not only rich, but celebrated over Europe, what would be-

(9) The reader who is familiar with Mr. Bentham’s writings may be referred also to the articles in the supplement to the *Encyclopedia Britannica*, on Government, Jurisprudence, Colonies, the Laws of Nations, and Prisons and Prison-Discipline, by Mr. Mill, reviewed in the *Edinburgh Review*, No. XCVII. He will be astonished to see how little of what is good belongs to the supposed author, (Mr. Mill) how much to the unsuspected author, Jeremy Bentham.

come of their reputation? They are now at the head of the severe and original thinkers of the age. Were they to do themselves and their preceptor justice—had they time to look after the renown or the welfare of that man who has literally been feeding them for years—feeding not only their minds with the very wisdom and strength for which they are celebrated, where they are celebrated at all, but their very bodies with food; nineteen twentieths of their glory as original-thinkers would depart from them, whatever might be the augmentation of another sort of glory, that which relates to the kindlier and more generous nature of man. Their heads might lose more than their hearts would gain.

And as for the more popular writers of the day, who have attempted to give the public a notion of the philosophy, the character, the mind, or even the personal appearance of the sage, there is not one—I say it seriously and advisedly—not one that ever knew him, nor more than two or three who had ever seen him, or so much as read a list of his works. To pass over a writer in the *North American Review*, for January 1828, who was led astray by the general error (which the editor has now an opportunity of correcting,) *Major Parry*, Hazlitt, the author of *Lacon*, (the Rev. C. C. Colton,) and the Rev. Sydney Smith, of the *Edinburgh*, may be mentioned as particularly distinguished for what they have said, without any knowledge of either, about the behaviour and the appearance, or the works and the philosophy, of Mr. Bentham.

Parry, whose laughable account of him used to delight Byron so much, no part whereof was absolutely true, though in every part there was a something *like* the truth you see in a broad caricature, dined with Mr. Bentham once, and but once. And Mr. Hazlitt hired a house of him (the rent of which he never paid), overlooking the beautiful garden, where the philoso-

pher used to run about with his venerable hair and quaker coat flapping in the wind. I mention the fact about the rent, because I do in my heart believe that Hazlitt, who values himself on being a good hater, would have loved Mr. Bentham, if he had been allowed to occupy the house forever, rent-free. Yet were you to judge by the confident ease of the biographer, you would believe he had been familiar with Mr. Bentham almost from their boyhood up ; but he never spoke with him, I believe, and probably never saw him in his life except from a two-pair-of-stairs window overlooking the garden alluded to. He has published two different portraits of Mr. Bentham, both of which were evidently prepared with seriousness, and published to the world for truth—and truth too of the writer's own knowledge. But Mr. Hazlitt is still a painter, (10) and a painter too, not from life, but from others. He dares not "look nature in the face," however beautifully he may talk of the advantage to be hoped from so studying her. (11) To show the value of these pretended portraits, and with what impunity *anything* may be said of Jeremy Bentham, even to his next-door neighbours, I would refer to what Mr. Hazlitt has ventured to publish of the general character of his mind—for he declares that Mr. Bentham has made 'no discovery,' and that he is therefore only a sort of labour-saving machine to 'show what others had done before him, and how far human knowledge had advanced.' When the truth of the matter is that the character of Mr. Bentham's mind is so decidedly and amazingly original, that every body with whom he ever held fellowship, and all that have ever studied his works, are distinguished by their originality, if by nothing more ; and that he has never written a page

(10) Mr. H. originally betook himself to painting, and made at least one capital copy in the Louvre, which was bought by Hayden, the painter, at a large price, and I believe paid for at £50.

(11) Hazlitt's Table Talk.

—no, not one page—without leaving a new chart for others to steer by, nor without making what are as much entitled to be regarded as discoveries, by every succeeding navigator, as were those of Cook, after he had approached the unvisited isles of the Pacific—the vast overpeopled solitudes of a new sea. Yet Mr. Bentham is not so remarkable for invention—for discovery in the seed, as for originality in pursuing and developing a subject; in bringing the seed to maturity. A hint with him, as with Christopher Columbus, may lead to the discovery of worlds—yea of many worlds in that universe of thought, which after having been explored for centuries added to centuries, by the mightiest among men, the very giants of the earth, still remains what it was at the beginning, a Universe of Thought, where all that we know is like our knowledge of the Deity—a sublime faith, a magnificent hope. To originality in the vulgar sense of the word, there may be nothing but a very questionable title now, for any body to hope for. Sir Isaac Newton, above a hundred and forty years ago, *conjectured* that diamonds were charcoal. It has lately been discovered that they are so. But of what value was the conjecture to those who set about the proof? Did it assist them in their labour? Did it abridge the process of enquiry? Did it serve to assure, to encourage, or to lead them a single step on their way? The principle is the same every where, and with every body. (12) The most of Jeremy Bentham's

(12) Why do we ascribe to Adam Smith the *discovery* of what political economists have agreed to call the division of labour? Is it that the idea originated with him? No—for it did not. As long ago as 1824, after Smith had enjoyed the reputation of a discoverer for nearly twenty-five years, Lord Lauderdale showed by a passage from Xenophon that *he* understood the advantages of that very division of labour, even in the business of cookery, and by another from Harris's Essay on Money and Coins, that he was apparently master of the whole subject. And since Lauderdale, a French writer, the indefatigable J. B. Say, in his note, upon the *cours d'économie politique* of Mr. Henry Storch, has shown that Plato understood and reasoned upon the subject of a division of labour, in his Republic, and that Beccaria, in his Course of Political Economy, and Turgot, in his *Reflexions sur la formation et la dis-*

works, if not altogether original, are as much so as any works of man ever were ; and of themselves may be regarded with soberness and truth, as the greatest discoveries ever yet made in morals and legislation. But, nevertheless, if you go through them one by one, link by link, you find them to have originated afar off, in a casual enquiry, brought about in his youth by a casual hint, which but for him, would have been, or might have been, overlooked forever by the rest of the world. So with Columbus—so with Newton—so with Bacon. The principles of truth are the germs of all knowledge. They are not to be invented ; they are to be discovered. But a discoverer not being an inventor, is not regarded by the world, as an original or originating genius.

But leaving the subject of Mr. Bentham's mind, as well as that of the general character of his works, of which it is not to be presumed that Mr. Hazlitt could judge, let us follow Mr. H. a step or two farther, and observe how he speaks of that, which as a popular and very beautiful and spirited magazine-purveyor of the day, would naturally lie within the sphere of his knowledge. The opening—the very first paragraph, in the biographical notice of Mr. Bentham, which appeared in the *Spirit of the Age*, Mr. Hazlitt's third attempt at telling the truth, contains the following passage : “ We believe that the empress Katherine corresponded with him ; and *we know* that the emperor Alexander called upon him, and presented him with his miniature in a gold snuff box, which the philosopher to his eternal honour returned.” Observe the

tribution des richesses (p. 3, 4, 50, 62, 66, and 67) were familiar with its details. Yet, notwithstanding all this, Adam Smith is everywhere looked upon as the *discoverer*. And why ? Parceque ces auteurs se bornent à montrer que la division du travail contribue à la perfection de l'ouvrage : or cette observation se presente d'elle-même, et elle ne conduit guère a des consequences importantes. Smith au contraire, a démontré, que la division ne perfectionne pas seulement le produit du travail, mais qu'elle l'augmente encore à un point étonnant, et que c'est là son principal avantage, puisque par là elle devient la source de l'abondance de tous les produits du travail.

language here. We *believe* this thing; but we *know* that. Now the fact is, that neither happens to be true. Mr. Bentham corresponded so far, not with Katherine, but with Alexander of Russia, as to receive a letter from him with a diamond-ring of great price, by the minister of that monarch at London—the letter he kept, the ring he returned. One other fact—a trifle to be sure in itself,—but worth referring to, when regarded as the deliberate testimony of a man who professes to know the person he speaks of so familiarly:—On the sixth page, he calls the eye of Mr. Bentham a lack-lustre-eye: on the very next page, however, the seventh—he speaks of it as a “quick and lively eye, and a restless eye”—all which is eminently characteristic of the showy, clever, slap-dash magazine-writer, who made up the “*Spirit of the Age*” for the amusement of the public, and the profit of a publisher, without any regard to the great purposes of biography.

With the Rev. Mr. Colton, the author of *Babylon the Great*, the Rev. Sydney Smith of the *Edinburgh Review*, certainly one of the shrewdest and pleasantest writers of the age, and a few more, I shall not now take up the reader’s time. They will be found in the preliminary chapter on *Utility*.

Were I called upon to give the character of Mr. Bentham in a few words, without entering into detail, I should speak of him as the most child-like, and at the same time one of the wisest and best, and therefore one of the greatest of God’s creatures; a man whom it were impossible to know without loving and revering him; whose errors—and with all his goodness and greatness, even he is not exempt either from errors of opinion or of conduct—are no part of his philosophy, whatever they may be of his humanity. Having done this, I should try to run a parallel between him and Hobbes; for in the grander as well as in the smaller features of both, in their strength as

well as in their weakness, they are alike; though the philosopher of our day, having always been occupied with the chief business of the world, Utility, may be regarded as altogether and immeasurably superior to the great author of the *Leviathan*. The resemblance may now be mentioned in a general way; but hereafter when the reader is made acquainted with Mr. Bentham, as one man is with another about a supper-table, or at a lunch under the green trees in the open air—I do not say about a dinner-table; for two men will be better acquainted after talking five minutes together by the way-side, over a mug of beer and a bit of bread-and-cheese, than at half a dozen formal dinner-parties,—I shall refer to the particular features wherein they so resemble each other.

It may not be amiss however to mention here, that a thousand extraordinary stories are in circulation about Mr. Bentham in his very neighbourhood, which have no foundation whatever in truth; and that a multitude more, which may be had on authority, with names, dates and witnesses, every day in the year among those who do not live a stone's-throw from the hermitage—though *like* the truth, are still so untrue, as to make it wonderful that they should ever be repeated by any body of character; much more that they should be, as they are, generally believed by the first men of the day, and gravely repeated in the newspapers, journals, and reviews of the day, to say nothing of the books.

The truth is undoubtedly strange enough, and laughable enough sometimes; but never—no never—had I been so lucky as to hear any thing *like* the truth, before I had an opportunity of judging for myself, about the behaviour, temper, general appearance or general character of Mr. Bentham. It was believed by many,—it is now, even by the *Quarterly* and *Edinburgh Reviews*, that he is the head of a dangerous and powerful party, who gather together by deputation at his house

from every part of the globe—holding a sort of congress, where all the turbulent and fiery spirits of Europe and of the two Americas, are literally represented. But the truth is that Mr. Bentham belongs to no party, though he is claimed by the Radicals of England as their chief, on account of his parliamentary reform-bill, and his great influence with the head-reformers of the law. The rest of the story grew out of the fact perhaps, that Aaron Burr, the shipwrecked Cæsar of America, found a refuge with our philosopher, when he had no other place on earth to lay his head; that whenever a distinguished statesman or political reformer of Europe is driven abroad from his country by the convulsions there, he generally goes to England, where the very first person he asks after—for no other Englishman is thought so much of or talked so much of, on the continent—is Jeremy Bentham; and that a few of his more youthful and more zealous disciples were in the habit of assembling together at his house, in the year 1825-6, for debate and consultation among themselves. But, although they did this for above a twelvemonth, he never met with them, nor was it expected of him; and of their whole number not more than half perhaps had ever interchanged a word with him. And as for the deputies from the disaffected of all Europe, I am sure that nobody was ever able to obtain a sight of him, for nearly two years that we were acquainted, without more delay and more difficulty than would have stood in the path of a presentation to half the crowned-heads of Europe. I have known him refuse to see a Russian counsellor of state who had come to London chiefly, if not altogether, for the purpose of seeing him, and I might mention a multitude more. Mr. Bowring the poet, told me himself, that he was trying for more than a twelvemonth before he succeeded; and for my part, I can say that I was above a year in England, without knowing any body but Mr. Owen of Lanark,

and a Mrs. Wheeler, the Mary Wolstencraft of our day, who had ever seen the face of that extraordinary man.

Two other stories may be mentioned, which are generally, I might say universally, received there. I wonder you were not afraid to go near him, said a superior female to me, having heard that Mr. Bentham had offered me an interview. Why so, madam? Ah you have no idea of his character, said she; the queerest old man alive. One of his most intimate friends told me not long ago, that he was undoubtedly deranged; for he keeps a number of young men to follow him about, and pick up what they call his sibylline leaves,—leaves upon which he had scribbled in characters that nobody but they who had gone through a long apprenticeship to the work, might ever hope to decypher, and which he scatters about him to the right and left in his post-prandial vibrations. (13) I believe that is the phrase for his after-dinner-walk in the ditch. I laughed; but that was all—I durst not contradict the story; for I already knew enough of the “strange old man” to perceive some truth in it; and how could I know that any part was untrue? But I was very soon afterwards able to distinguish the one from the other. I do not *know*, but I should suspect Mr. Bentham’s old friend, Dr. Macculloch the geologist, of the story; so untrue is it, and still so like the truth: for Mr. Bentham does keep two secretaries constantly employed in deciphering his abominable manuscript, and with the one or the other he is always seen when he goes to take his trot in that large and beautiful garden of his, which borders a part of St. James’s Park.

At another time I was assured, on authority, that not long before, one of the British-cabinet having dropped a line to him to enquire about a provision

(13) See Ode to the Goddess Ceres, in Odes on Cash, Corn, and Catholics, by Moore.

recommended by Sir Samuel Romilly, he wrote a book in reply. This was a capital story, to be sure—but like the story told by Hazlitt, of the miniature offered to Bentham by Alexander of Russia; though there was some truth in it, there was so much untruth, as to spoil it. At the time alluded to, Mr. Bentham had never had any correspondence with the British ministry, except about his Panopticon, where the government were told in a few brief and powerful words, that they had broken their faith, and ruined a man for trusting to it; and to the value of a page or so with Mr. Canning, to obtain the release of a man who had literally *insinuated* himself into a French prison, by pretending to know more than he ever did, or ever could know about the disorganized patriots of Europe. I allude to Mr. Bowring. But after this, Mr. Bentham had a somewhat lengthy—I like the word here—a somewhat lengthy correspondence with Mr. Peel, touching his celebrated reform and consolidation of the statutes; and is now in regular correspondence with the British ministry on the subject of Law-Reform.

Of other and similar stories a book might be made; but these are enough. And now before we go to the familiar facts which are to be laid before the reader, it may not be amiss to give a summary view of the labours of our author—leaving their merit and peculiar character to be treated of at large, under a different head hereafter.

CHAPTER II.

GENERAL VIEW OF HIS WORKS.

JEREMY BENTHAM is now in his eighty-third year. While he was yet a young man, he distinguished himself by a masterly attack on Blackstone's Commentaries. (14) It appeared in one volume, and was so remarkable for beauty of style and strength of argument, as to be ascribed to the first writers of the age—and among others to Lord Mansfield, who used to speak of it in the highest terms.

Not long after this, he took the field on the subject of the hard labour bill, then before parliament; and here probably originated that unappeasable spirit of enquiry, which for more than half a century has now distinguished him. It was entitled *A VIEW OF THE HARD LABOUR BILL*; with observations *relative to Penal Jurisprudence* in general. 1778, 8vo. pp. 144.

Nine years after, came forth his *DEFENCE OF USURY*, at that time regarded rather as a theological, than as a political question; and in an essay which never has been refuted and never will, though it is very brief, and a perfect model for clearness and simplicity of style, he demonstrated the absurdity of regulating the interest of money by law. From that day to this, all

(14) Called a "Fragment on Government; or a *Comment on the Commentaries*." It appeared in 1776, when the author was in his twenty-eighth year, in 8vo, 265 pp. A new edition is lately out. The MS. from which M. Dumont abstracted the Theory of Punishment and Rewards, was written yet earlier—in 1775, when the author was only in his twenty-seventh year. When Blackstone was asked if he meant to reply to the Fragment, he said "no—not even if it was better written." But though he made no answer to it, nor any mention of it by name, he did not altogether refrain from noticing it. In the preface to the following edition of the work, there were allusions to it. *Suppressed Preface to the last edition of the Fragment.*

that has ever been urged on the same side, though by certain of the ablest writers and statesmen of Europe and America, may be referred immediately and directly to this very essay—so difficult was it to say any thing new, after Jeremy Bentham had exhausted the subject.

In 1789 appeared the original quarto edition of *MORALS AND LEGISLATION*, the groundwork of the author's whole fame with Dr. Parr and others of like amplitude and strength of mind. It has lately been republished in a more readable shape; and may be regarded as these very principles in the rough, which are now submitted to the world. It is not to be denied that the language is rather obscure; that it requires a painful degree of attention to master it; that as a work it might be greatly improved; and that so far as the English and our people are concerned, it has been from that day to this, very shamefully neglected; but nevertheless I repeat what I have said before. It is the *Novum Organum* of *Morals and Legislation*. It contains the seeds and elements of all truth in these two great sciences—the greatest the human mind was ever yet employed upon. Before Bentham wrote, all was chaos in the whole history of legislation. But now it is beginning to wear the shape of *science*; and to him we are entirely indebted for this.

Not long after, followed the *PANOPTICON*, or the *INSPECTION-HOUSE*: containing the idea of a new principle of construction applicable to any sort of establishment, in which persons of any description are to be kept under inspection; and in particular to penitentiary houses, prisons, houses of industry, work-houses, poor-houses, manufactories, mad-houses, lazarettos, hospitals, and schools: with a plan of management adapted to the principle—1791. These are the celebrated letters on the subject of *Prisons and Prison Discipline*, to which Europe and America are chiefly in-

debted for the improvements made during the last half century in the structure of prisons and treatment of prisoners, and all this without any acknowledgment in favour of the author—our *Prison-Discipline-Society* of Boston, among the rest. If they would look into Bentham, they would find that most of their discoveries and suggestions, and hopes and views originated with him ; that he was ahead of them half a century ago in the best part of their plan ; and that if they would, they might have their mistakes rectified, and their deficiencies supplied, by a paragraph or two borrowed here and there, out of his *Panopticon*. This work received so much attention, that a bill was brought into parliament, and the appropriation was actually made under the administration of Mr. Pitt, for carrying the project into full operation. But, owing to a personal grudge on the part of the reigning monarch against Bentham for a review of one of his majesty's papers, he, George the Third, would not sign the order for the money, and the affair dropped through. And just so it was in France—there an appropriation was made ; but the breaking out of the revolutionary war put a stop to the erection of the buildings. And so in Spain. While that country was under the sway of the Cortes, large appropriations were made for the same purpose ; but change followed change, and the money, if it was ever collected, which is doubtful, was diverted into other channels more immediately affecting the safety of the state.

To these succeeded the following works, in the order mentioned below.

DRAUGHT OF A CODE FOR THE ORGANIZATION OF THE JUDICIAL ESTABLISHMENT IN FRANCE : with critical observations on the draught proposed by the National Assembly Committee, in the form of a perpetual commentary—1790—91. 8vo. 242 pages, very closely printed. This work is one of Mr. Bentham's masterpieces ; eloquent and powerful, and clear as ever

language was. Mr. Mill, the father, has borrowed largely from it in his capital Essay on Jurisprudence, in the Supplement to the Encyclopedia Britannica. (15.)

ESSAY ON POLITICAL TACTICS: containing six of the principal Rules proper to be observed by a political assembly, in the process of forming a decision: with the reasons on which they are grounded; and a comparative application of them to British and French practice: being a fragment of a larger work; a sketch of which is subjoined, 1791, 4to. pp. 64. A very significant though brief essay, out of which and some others on the same subject, M. Dumont afterwards produced a French work, in two large vols. 8vo.

SUPPLY WITHOUT BURTHEN; or Escheat *vice* Taxation: published with 1st Edition of Protest against Law Taxes, 1796, small 8vo. or 12 mo.

EMANCIPATE YOUR COLONIES: An address by the author to the National Assembly of France, whose predecessors had made him a French citizen; a powerful and beautifully-written pamphlet in favour of Free Trade, 1793, 8vo. pp. 48.

PAUPER MANAGEMENT: a Letter on the SITUATION AND RELIEF OF THE POOR; addressed to Mr. Arthur Young (to whose journal he was a contributor at the time of the newspaper controversy with George the Third, which led to the refusal of the king to sign the order mentioned in page 29), editor of the Annals of Agriculture, and published in that work, 1797, 8vo. pp. 288; with tables.

LETTERS TO LORD PELHAM, &c. &c. &c., Giving a comparative view of the system of penal colonization in New South-Wales, and the home-penitentiary system prescribed by two acts of parliament of the years 1794 and 1799; viz. in consequence of an acceptance given to a proposal of the author's, ground-

(15) Reviewed by the Rev. Sydney Smith, in the Edinburgh Review, No. XCVII. Controversy continued in Edinburgh Review, No. XCVIII. and XCIX.

ed on the plan delineated in the *Panopticon* as above, (page 23). 1802, 8vo.

PLEA FOR THE CONSTITUTION, 1803: written in continuation of the above.

SCOTCH REFORM, compared with English Non-Reform: in a series of letters to Lord Grenville, 1806, 8vo. pp. 100, closely printed: relative to the judicial establishment of Scotland and England.

ELEMENTS OF THE ART OF PACKING, as applied to Special Juries: particularly in cases of libel-law, 8vo. pp. 269, printed 1810, published 1821.

"SWEAR NOT AT ALL;" containing an exposure of the needlessness and mischievousness, as well as anti-Christianity of the ceremony of an oath: with proof of the abuses of it, especially in the University of Oxford, printed 1813: published 1817, pp. 97.

TABLE OF SPRINGS OF ACTION: printed anno 1815: published anno 1817, 8vo.

DEFENCE OF ECONOMY against Edmund Burke: (written 1810) published in the Pamphleteer, No. XVI. January 1817, 8vo. pp. 47.

DEFENCE OF ECONOMY against the Right Honourable George Rose: (written 1810) published in the Pamphleteer, No. XVIII. January 1817, pp. 52.

CHRESTOMATHIA, Part I. explanatory of a proposed school for the extension of the new system of instruction to the higher branches of learning, for the use of the middling and higher ranks of life, 1816, 8vo. Part. II. being an essay on nomenclature and classification: including a critical examination of the Encyclopedical table of Lord Bacon, as improved by D'Alembert, 1817. With tables.

PLAN OF PARLIAMENTARY REFORM, with reasons for each article: and an introduction, showing the necessity of radical, and the inadequacy of moderate reform, 1817.

Papers relative to CODIFICATION and PUBLIC INSTRUCTION: including correspondence with the Em-

peror Alexander, and the President and divers other constituted authorities of the American United-States, 1817, 8vo.

CHURCH-OF-ENGLANDISM and its Catechism examined: preceded by strictures on the exclusionary system, as pursued in the National Society's Schools: interspersed with parallel views of the English and Scottish established churches: and concluding with remedies proposed for abuses indicated: and an examination of the parliamentary system of church reform lately pursued, and still pursuing:—including the proposed new churches, pp. 794, mostly very closely printed.

OBSERVATIONS ON THE RESTRICTIVE AND PROHIBITORY COMMERCIAL SYSTEM, especially with reference to the decree of the Spanish Cortes of July 1820. "Leave us alone." From the MSS. of Jeremy Bentham, Esq. By John Bowring.

In addition to these—and it may be well enough to observe here that the SPRINGS OF ACTION and CHRIS-
TOMATHIA, are the two greatest, after the MORALS
AND LEGISLATION—there are a considerable number
of works published anonymously or under fictitious
names, of which Mr. Bentham was the originator
and author.

THE BOOK OF FALLACIES, edited by Mr. Bingham, the law reporter, and editor of the Parliamentary Register and Review, 8vo. pp. 400;—a very satisfactory and liberal review of which, by the Rev. Sydney Smith, appeared in the Edinburgh Review, No. LXXXIV.

ANALYSIS OF THE INFLUENCE OF NATURAL RELIGION: published by Richard Carlisle, in 1822; and issued under the name of Philip Beauchamp. Undoubtedly a very able work; though intended to prove that all religions are the growth of uncertainty, perplexity and fear, and all alike unworthy of regard. (16.)

(16) The hints were borrowed from Helvetius, of whom hereafter.

From what I know of Mr. Bentham, I have no doubt of his being an atheist. I have been told so, by those who know him; a good many of his more youthful followers are so,—if they themselves may be credited; and though we had never had any conversation together that satisfied me, still, as I have said before, I have no doubt of his being an atheist. And I mention this here, that I may not be charged with blindness to what I look upon as not only the greatest, but as the only great error of that man's faith. Not that he *believes* there is no God—I do not say so: but he is not thoroughly satisfied I believe, that there *is* a God. If he would enquire, and it is not even yet too late, he would perceive what he must delight in hoping, even if it were not proved, the existence of One who is emphatically the Father of such men as he is. Peradventure, it is not so much atheism after all, as it is a mistake with him. He mistakes the uncertainty of one fact, or rather a want of mathematical certainty in one fact, for the certainty of another fact: the *want* of such kind of mathematical proof as he is habituated to, that there *is* a God, for conclusive demonstration that there is *not*. I know well the nature of his mind; and I do not scruple to say that I believe this. Not being satisfied as other men are, and not being at leisure in his old age, and just on the shadowy and shifting threshold of another world, to investigate the subject in his own way; and being imbued with the pestiferous, and most unreasonable doubts of a Frenchman, who was a believer in Voltaire, and the first teacher of Mr. Bentham; and withal having translated *Le Taureau Blanc* of Voltaire, without acknowledging it,—nor does he know to this day, probably, that he was ever suspected of it; and having produced the work on Natural Religion, above-mentioned, which was edited by one atheist, and published by another, (the infat-

mous Richard Carlisle (17), it cannot be expected of him that he should now enquire very diligently or wisely, nor that his disciples, whatever *he* might do or say now, would be satisfied. We may be sorry for such things, but if they are otherwise good men, our sorrow will lead us rather to pity than to rage or hatred for them. As well might we rebuke those who are troubled with fever, as them that require to be convinced by touch, or taste, or ciphering, of the existence of a Deity. Why may not men be suffered to believe what they please, or what they *can* rather, about God and a future state, and all the mysteries of theology, as about any other subject of dispute or enquiry. We do not quarrel with men now about their belief touching wizards, or the motion of the planets, or the origin of the blacks. Why should we, about their belief respecting their Father above? What I say, I believe. I am no atheist—if I were, I should avow it in the face of heaven and earth, and abide the consequences. But to return to the catalogue.

Then appeared Not PAUL BUT JESUS, a book in 400 octavo pages, with tables, sustaining a comparison of the gospels with Paul's epistles, for the purpose of showing that "Two quite different, if not opposite religions are inculcated" thereby: that "in the religion of Jesus may be found all the *good* that has ever been the result of the compound so incongruously and unhappily made,—in the religion of Paul, all the *mischiefs*, which, in such disastrous abundance, has so indisputably flowed from it." 1823. This work appeared under the name of Gamaliel Smith, Esq., and was edited by a secretary of the author, a very young man.

To the preceding may now be added :

The OUTLINES OF A NEW SYSTEM OF LOGIC, pub-

(17) I do not call Richard Carlisle infamous because he is an atheist, but because he has no charity, no decency for those who are not, and because I do not know another so blind or so desperate a mischief-maker.

lished in 1826, 8vo. pp. 287; from the MS. of the author, by his nephew Mr. George Bentham :

A REVIEW OF HUMPHREYS ON REAL PROPERTY, in the Westminster Review, No. XII. p. 63, in the *unaltered language of the author* :

THE CONSTITUTIONAL CODE : a magnificent work, only a part of which has been printed ; being the *whole* of what every thing else heretofore published by the author has been but a *part* :

The RATIONALE OF EVIDENCE, in five vols. large octavo, containing nearly 4000 pages, edited by Mr. John Mill, and reviewed in the Edinburgh Review, No. XCVI.

PETITIONS FOR JUSTICE AND CODIFICATION : a work in 8vo. just published, and written with a view to engage the people and the ministry *to work together*. It promises to succeed ; for the whole empire is now agitated to its foundation, and the government full of zeal on the subject.

Simultaneously with the above, a considerable number of works have appeared in French,—selected by M. Dumont of Geneva from a vast accumulation of manuscripts by Mr. Bentham ; a small part of which (*Théorie des Péines et des Récompenses*) were actually written by the author in that language, and for the oddest of all reasons in the view of an ordinary writer. He could not find words in English, wherewith to express himself clearly and unequivocally ; and as he knew that from the imperfection of language it never could be otherwise while he lived, and while the very elements of the new science, the very tools thereof, had no name ; he concluded to write—as he would talk—in a foreign language, and leave for others to make what they could of it hereafter. He was overburdened with vast ideas ; but they were not to be communicated in the every-day language of ordinary men. He had no time to contrive a new language ; and therefore he had recourse to one,

which, though he was well acquainted with it, he was not so severe a critic of, as to be troubled with metaphysical misgivings in every paragraph he formed, as he was while employed with English. This very reason I give out of his own mouth.

After some years, a clever Frenchman, who had been for a while an associate of Mirabeau, and who (as I have been told by Mr. Gallatin, the townsman of both) used to write the very speeches that Mirabeau delivered, came to England, where he got acquainted with Mr. Bentham. These manuscripts, partly in French, and partly in English, were thrown into his hands; and out of them he has extracted about ten large volumes of *readable* matter, which but for him would never have been popular.

Thus much may be admitted, though M. Dumont himself says, and so indeed must every body, who is well acquainted with the character of the two—the one a severe and imperturbable thinker, the other a mere rhetorician, though a beautiful and striking writer,—that instead of *improving* Bentham, he has only *preserved* a portion of his unwieldy greatness—arranged a part of his neglected wealth—but added nothing to what he found lying in the ore—absolutely nothing. Be it so; but his merit is only secondary nevertheless, to that of the original author. He has coined that earth, which but for him would have been overlooked for ages,—it may be forever; he has put into circulation, with a stamp that makes it current throughout the world, that ore, which, whatever were its value in fact, might as well have remained forever in the bowels of the earth, as be where he found it—and freighted himself with it for the posterity of nations. But I would not go so far as many do; I should not say that M. Dumont has added to the worth of the solid, weighty, and vast original; for M. Dumont, as I have said before, though a beautiful writer, is vague, insecure, and showy, after the ap-

proved manner of Montesquieu, whose lively and brilliant affectation passes with the multitude for the sententiousness of a deep-thinker. All that we are indebted to him is, for having made his author more palatable and more popular; now by judiciously abridging, and now by omitting passages and parts, which they who know the strength and significance of Bentham, would no more part with or give up, than they would part with or give up the brains of a favourite author.

Most of the writings of Jeremy Bentham which have appeared since M. Dumont published the selections alluded to above, are distinguished for strength and simplicity, though not so much for beauty or perspicuity of style, as were his earlier works; yet any one of them would be enough to show that Jeremy Bentham, and not M. Dumont, is the author of every profound and extraordinary thought in the whole of the ten volumes edited by M. Dumont; and not only that, but the very form and felicity of expression, wherever it is remarkable for energy or directness, for grasp or comprehensiveness. I would not even except the review of Mr. Humphreys by Bentham in the Westminster Review, a paper which, though it contains more of the author's peculiarities, and more of that new language he is twitted with being the father of (*Benthamee*) than any thing else to be found in any of his works, I would appeal to, if there were nothing else at hand, to show the amplitude, the elevation, the depth of the writer's mind. Allow what we may for the gossip, and the trifling, and the strange words, and the affected phraseology, as it would appear to a reader of story-books or newspapers, there would still be enough left to prove that the author was a great man. Let me be distinctly understood therefore. We are largely indebted to M. Dumont; not for improving Bentham however, but for making him popular with those who might never

have read him, nor understood him in his original gothic redundancy, severity and strength—to say all in a single word, for having *Frenchified* him.

The following are the works referred to, by M. Dumont, second and third editions of which have lately been published at Paris.

1. TRAITES DE LEGISLATION Civile et Pénale, précédés de Principes Généraux de Legislation, et d'une Vue d'un Corps complet de Droits; terminés par un Essai sur l'Influence des tems et des lieux relativement aux lois. Paris, 1802. 3 tomes.

2. THEORIE DES PEINES ET DES RECOMPENSES. Londres, 1811. 2 tomes.

3. ESSAI SUR LA TACTIQUE DES ASSEMBLEES POLITIQUES. Genève, 1816: ensemble, sur les Sophismes.

4. TRAITES DES PREUVES JUDICIAIRES. Paris, 1823. 2 tomes.

But to conclude this part of our subject. As Mr. Bentham grew older, he grew more and more dissatisfied with the *inadequacy* of language, with the want of exactness in it; and he therefore began to prepare a new system of logic for himself—a few chapters of which have lately been booked into a readable shape by his nephew, Mr. George Bentham, one of the most promising men of the age, both for acuteness and for strength. From this he went on, growing less and less elegant, and to the careless reader, the novel-reader, or the newspaper-reader, less and less perspicuous every year; for he went on abridging volumes into chapters, and chapters into tabular views, till it was impossible for any body to understand him, who had not gone step by step through his preliminary demonstrations; till at last he came to a style, which cannot be defended—such as that of the article he wrote for the Westminster Review. And yet, though all this may be said of that particular paper, it is due to him and to the public to add, that as he has grown older he has grown wiser; that the style

referred to grows out of his exceeding honesty,—for he does not allow himself to separate his assertions from their qualifications—so that his periods are encumbered on every subject of interest; that in ordinary matters where a newspaper style would do, no man alive writes a more off-hand, free or natural style than Jeremy Bentham; and that—after all—the very difficulties we complain of, are attributable more to the *subject* handled by him, than to the style in which they are handled; more to the nature of the science treated of, than to any thing else; and that for people who are not acquainted with his early works, to complain of *all* his late works for not being clear, is about as absurd as it would be for a man who had never studied his multiplication table, to find fault with a treatise on fluxions for not being as intelligible, straight-forward and agreeable as a newspaper-essay upon the private character of a political adversary. (18)

(18) A friend, whose suggestions are always entitled to much respect, on seeing the above paragraph, sent the author a note, which, as it clearly expresses what a majority of readers may *think*, and is therefore worthy of some reply, he has thought proper to publish below, with his reasons for not yielding to the suggestion.

NOTE.—Bear in mind that you are writing, not alone for those who admire Bentham and who acknowledge his worth, but for the American public, who know him scarcely by name. Moderate and sensible men will smile at your enthusiasm, the incredulous and sarcastic will laugh outright: This is a matter of little consequence in itself—but it may lessen the reader's confidence in other and more important portions of the memoir. Did you quote passages remarkable for depth as well as obscurity, and clear them up to the satisfaction of those who read, your panegyric would still appear somewhat inflated. Man is an estimable being, so far as he procures happiness for himself and for his fellow-men—An individual may be well skilled in the arts, he may be profoundly learned, he may foretell at a glance the destiny of nations—yet should his hands and feet be tied, and his mouth hermetically sealed, he might as well be a simpleton as a wise man, so far as he may benefit others. Now I think of it, you have made an acknowledgment to the same effect a page or two back. Had Bentham mixed more with those about him, and acted and talked like other men, and studied to convey his wonderful conceptions in familiar language, how much better had it been for the world, and for his own reputation, than to see them ground over, diluted, and served up by a French cook.

REPLY.—What is said of Jeremy Bentham throughout this work, the author, who has had the best opportunities for judging, *believes*—he might say *knows* to be true. Believing thus, and having said it seriously, he cannot consent to qualify the language, for no better reason than because it may appear ex-

And now, before we go to the familiar facts, whereby every reader may be acquainted with Jeremy Bentham, as men are with men, it were well to know whether he regards the knowledge he is about to have, as worth having; whether he is prepared to believe, that laying the foundations of an immutable science, that going forth to the four quarters of the earth as a benefactor and a legislator, thinking nothing too small for notice which may concern the happiness of the great human family, nothing too weighty nor too large to be grappled with, if it affected their welfare either now or hereafter, are doings of not much importance in the pathway of centuries. If so, he had better proceed no further.

travagant to those "who know Bentham scarcely by name," and to whom therefore any thing *like* the truth would appear extravagant; or because it may serve to disparage the general character of a work with those who are too indolent for enquiry, or presumptuous enough to believe that nobody can be *great* in any way without their knowledge.

CHAPTER III.

FAMILIAR ANECDOTES OF MR. BENTHAM.

First acquaintance with his Works—Utilitarians—First Interview—Milton's House—The Dinner—Mr. Adams—Resemblance to Dr. Franklin—Mr. B.—Peculiarities of Dress, Diet, Language, &c.

I HOPE to be pardoned for alluding to myself here; but if the reader wishes to know Mr. Bentham as I do, he must follow me step by step. My acquaintance with the writings of the philosopher began about twelve years ago. I was then a student at law in Baltimore, Maryland. Mr. Hoffman, the professor of law in the university there, having published a "Course of Legal Study," and having, with a liberality for which I can never be too grateful, offered me the advantage of his library, one of the largest and best in our country, I determined after full consideration of the difficulties in my path, to pursue that "Course," notwithstanding I had entered with the late distinguished Mr. Winder. While pursuing it, which I did, whenever it was possible to find the books mentioned, it became necessary to read three different works by Mr. Bentham:—his *Théorie des Peines et des Récompenses*, par M. Dumont, in French; his *Defence of Usury*, the very title of which was enough to captivate me; and his great English work in quarto, on *Morals and Legislation*. Of the first, Mr. Hoffman spoke thus; and in all that he said, he was corroborated by Mr. Pierpont the preacher, to whom I was indebted even for the book of Mr. Hoffman,—“It is a matter of no less surprise than regret, that a work of such extraordinary merit should thus long have remained unknown, not only to the students but to the

learned of our country." I would observe here, by the by, that precisely the same remark might be made of every other work by the same author. But Mr. Hoffman proceeds—"Five years have elapsed since the publication of this book, yet it is to be found in no public or private library with which we are acquainted; and most of the booksellers, and many of the literati, have never heard of it." How true! and how disgraceful to our age! I do not say to our country; for it was the same, five years ago in the country of the author.

Not being very easy with French at the time, and perceiving at the end of the work, which was printed at London, that a translation was about to appear, I desired a bookseller to import a copy for me, in English if possible, if not—in French. Neither could be had; the work was not known there. I tried again; but with no better success, nor could I even find out whether Mr. Bentham was a native or not of England. One great work had just appeared in English, to be sure; but another had just appeared in French, and was *to be* translated into English. Of course therefore I concluded that the original was in French; and as no philosophical writer, no such close and powerful reasoner certainly as the author before me, would write in any other than his native language, that he was therefore a Frenchman. And this was all I knew, or any body else of whom I enquired, till many years had gone by.

At last, on hearing Mr. Hoffman express a desire that somebody would undertake to render the two volumes referred to, into English, I told him I would do it, if I could find a publisher. He thought there would be no difficulty in the way, and even spoke of publishing it himself; but to this I would not consent; for apart from the apathy of the public, I believed that a publisher not in the trade *might* lose by a work, which a publisher *in* the trade might make money by. I there-

fore wrote to Mr. Riley of New-York, then regarded as one of the largest and most enterprising of our law-publishers, and offered to translate the two volumes octavo, one of which contained somewhat over four hundred pages, the other somewhat less, and to add notes on English law, and the criminal jurisprudence of our country, which might be referred to the judgment of any good lawyer; and to do this for *three hundred dollars*, one half payable in law-books;—the work to be ready for the press in three months at furthest. But he was afraid to undertake it, alleging that nobody knew Mr. Bentham. And here the matter rested, for I knew as little of him as others did, until the year 1825, when we were accidentally thrown together in his native country. I have mentioned these things merely to show, that the reverence I feel for the labours of Jeremy Bentham, is not the sudden growth of partiality, nor the effect of what I may be allowed to speak of here as the friendship of that extraordinary man.

But, although I would have crossed the Atlantic, as I have said before, to enjoy his company for a single evening, had I been able to afford it; still, after I *had* crossed the Atlantic—nay after I had arrived in the very neighbourhood of his house, I could not find a person that knew him, or had ever seen him; and I was there above a twelvemonth, before I knew where he lived, though his habitation was hardly a pistol-shot from my own lodgings, in Warwick-street, Pall-Mall. At last, however, when I had given up all idea of ever seeing the man, for I knew several native Englishmen of high character, who had been trying for years to find the way to his door, as they acknowledged without scruple,—we were brought together by the merest accident in the world; and I remained with him so long, and knew him so intimately, that—perhaps it would not be too much to say—probably no person alive knows more of the true character of Jeremy Bentham than I do. Mr.

Bowring, and Mr. Mill, the author of *British-India*, may have known him longer; but never more intimately. They have seen him at intervals of a week or a month, year after year; but I have been with him every day for about eighteen months, and spent almost every evening with him, from six o'clock, the dinner-hour, till about eleven or twelve at night, for the whole of that time. I have seen him through all his changes therefore; and I believe that I know him thoroughly and completely.

On Friday evening, Oct. 22d, 1825—I have the very day before me,—I was invited to meet with the Utilitarians at his house, for debate,—a body of youthful conspirators against government, order and morality, the fine arts, and all the charities and sympathies and elegancies of life, you would suppose, were you to judge of all by two or three; or even by what is said of all, by those who occupy the high-places in the commonwealth of literature. This formidable band however consisted of but seven persons, most of them young men, mere boys in age and experience, and the others below the middle age. They were all, without one exception I believe, atheists—fixed and irretrievable atheists *in their own opinion*, though of the whole, no one had ever read much, or thought much, or written much, even for a youth. Nor were they otherwise remarkable. As debaters, they were unspeakably wretched; as writers, they were nearly as bad, with one or two exceptions; but they were good reasoners; and one of their number was certainly the closest and clearest I ever knew under the age of thirty-five. Yet he was hardly eighteen I believe; certainly not over nineteen. They had a young gentleman to preside, of whom all that I can remember is, that he had very black hair, very bright eyes, and very large teeth; that he was clever, but saucy, and a great lover of paradox. After the business of the society was over, young Mr. Mill, the editor of Mr.

Bentham's Rationale of Evidence, then going through the press, read a portion of the manuscript, with two or three of his own notes, which were certainly very surprising for such a youth. Having already learnt to prefer crude Benthamism to prepared Benthamism, I detected the original of much that Mr. Mill the father had furnished for the supplement to the Encyclopedia Britannica here. We had almost the whole of his renowned essay on Jurisprudence, in a colloquial form. After this, they had what they called a debate—and such a debate! No wonder the Utilitarians are at daggers drawn with oratory. Of the leaders, not one was ever able to express himself, with power and beauty, even about his own faith; not one converses well, not one is there that speaks with energy, clearness and fluency, at the same time, nor one that may ever hope, under any circumstances, to be distinguished as a speaker. I know them all; and I know what I say to be true. Mr. Bentham is very unhappy in conversation, the moment he leaves preaching and begins to argue; and Mr. Mill, the father, never attempted a speech but once they say, and then he failed so utterly and so hopelessly that he has been at war with oratory ever since. (19) However, as I

(19) It is laughable enough to see how near the truth *guess-work* may go. The Rev. Sydney Smith, who wrote the paper for the Edinburgh Review, from which the following is extracted, never knew, never could know, either by enquiry or by reading, that what he says here is true. And yet, although not exactly the truth, it is very near the truth, so far as the narrow-mindedness of the *sect* is concerned.

“We have been” says the Edinburgh Review, No. XCVII. p. 160, “for some time past inclined to suspect that these people (the Utilitarians), whom some regard as the lights of the world, and others as incarnate demons, are in general ordinary men, with narrow understandings, and little information. The contempt which they express for elegant literature, is evidently the contempt of ignorance. We apprehend that many of them are persons who, having read little or nothing, are delighted to be rescued from the sense of their own inferiority by some teacher, who assures them that the studies which they have neglected are of no value, puts five or six phrases into their mouths, lends them an odd number of the Westminster Review, and in a month transforms them into philosophers. Mingled with these smatterers, whose attainments just suffice to elevate them from the insignificance of dunces to the dignity of bores, and to spread dismay among their pious aunts and grandmothers, there are, we well know, many well-meaning men, who have really read and thought much;

have said before, they are almost to a man powerful and acute reasoners, though addicted to questioning the most obvious truth when it stands in their way. This evening the subject was the poor-laws, and the policy of their introduction into Ireland. It was opened by a Mr. P., a good-natured, large, agreeable man, who like two others in this society of seven, was afflicted with an impediment of speech, and used to stop and breathe between every two or three words. No wonder they sneer at oratory! He was replied to by young Mill, in a very modest, firm, unprepared speech. The reasoning and the language of Mr. M. were both good, though he appeared somewhat anxious; and a part of his pronunciation was that of the north country—waound, raound, &c., for wound, round, &c. He was followed by another, who got up with

but whose reading and meditation have been almost exclusively confined to one class of subjects; and who, consequently, though they possess much valuable knowledge respecting those subjects, are by no means so well qualified to judge of a great system as if they had taken a more enlarged view of literature and society.

Nothing is more amusing or instructive than to observe the manner in which people, who think themselves wiser than all the rest of the world, fall into snares which the simple good sense of their neighbours detects and avoids. It is one of the principal tenets of the Utilitarians, that sentiment and eloquence serve only to impede the pursuit of truth. They therefore affect a quakerly plainness, or rather a cynical negligence and impurity of style. The strongest arguments, when clothed in brilliant language, seem to them so much wordy nonsense. In the mean time they surrender their understandings, with a facility found in no other party, to the meanest and most abject sophisms, provided those sophisms come before them disguised with the externals of demonstration. They do not seem to know that logic has its illusions as well as rhetoric,—that a fallacy may lurk in a syllogism as well as in a metaphor.

Mr. Mill is exactly the writer to please people of this description. His arguments are stated with the utmost affectation of precision; his divisions are awfully formal; and his style is generally as dry as that of Euclid's Elements."

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"As to the greater part of this sect, [Edinburgh Review, No. XCVII, p. 189] it is, we apprehend, of little consequence, what they study, or under whom. It would be more amusing, to be sure, and more reputable, if they would take up the old republican cant, and declaim about Brutus and Timoleon, the duty of killing tyrants, and the blessedness of dying for liberty. But, on the whole, they might have chosen worse. They may as well be Utilitarians as jockeys or dandies. And though quibbling about self-interest and motives, and objects of desire, and the greatest happiness of the greatest number, is but a poor employment for a grown man, it certainly hurts the health less than hard-drinking, and the fortune less than high play: it is not much more laughable than phrenology, and is immeasurably more humane than cock-fighting."

a sort of fling, and began with a loud, free voice, which died away after a moment or two; when he lost himself entirely, having said this and this only: Sir, I rise to make a few observations,—and *but* a few. My opinion is decided, and *very* decided. Here he began to talk lower and lower, and soon ran himself out, courage, waggery and all.

After this brief sketch of the Utilitarians I saw gathered together at the hermitage of Mr. Bentham, in Queen-Square Place,—and whom by the way it was my lot to oppose, whenever they touched upon theology,—the reader will be prepared to feel as I did, when at the end of another week, as I was sitting by myself in my landlady's little parlor, a young man, whom I knew for the private secretary of Mr. Bentham, and whom I supposed to be one of the two keepers mentioned by the trust-worthy Parry, entered the room, and after interchanging a word or two about the weather, dropped his voice, and communicated a verbal invitation to me from Jeremy Bentham, as if it were the pass-word for something, which it were a matter of life and death for anybody to overhear. So—I was to dine with the philosopher; and the day fixed upon was the 2d of Nov. (1825); the hour six. But query, said I to myself, as the day drew near—must I go punctually or not? If I go punctually, who knows but I may be charged with affectation or ignorance; a disregard or a want of acquaintance with the usages of the country, not to be pardoned. I knew very well that “fashion's six is half-past-six or seven,” just as “not at home” is,—I have no time to throw away on you. But then the philosopher they say, is not a man to be trifled with: he is moreover somewhat whimsical, and he cares nothing about fashion. Perhaps, therefore, if I do not arrive punctually, I may be reproached for my want of a republican virtue, and put off without my dinner. This determined me, and I started in good season;

but owing to the difficulty of finding the way without a guide through Queen-Square Place, the secretary had been obliging enough to say that he would leave the iron gate open for me, which enters on the park. (20) The gate I missed; and I did not arrive therefore till a quarter after the time. But after I had arrived, there seemed to be little or no prospect of my seeing the interior. I could find nothing that resembled what in our country is denominated a front-door—nothing in the shape or size of a principal entrance. A door I saw, and I marched up to it; but there was no knocker, and after feeling about in the dark awhile, I discovered the steps, and circum-navigated the whole premises, including the coach-house and a part occupied by Mr. Coulson, editor of the *Globe*. At last I found myself just where I started from. So, for the want of anything better, I began to pound away at the door with my knuckles. After a minute or two spent in this way, the door opened, and the secretary appeared in a room on the left of the passage-way, seated at a piano—as vile a thing, by the by, as I ever saw, though he had a decided taste for music, and played the organ with a masterly touch for an amateur. We entered into conversation immediately, and were beginning to understand each other, when I stopped to listen to a cheerful trembling voice that appeared to be approaching. The next moment I heard my name pronounced, and somebody talking very fast and not very intelligibly at the door, which opened with a nervous hurried shake, and a middling-sized, fresh-looking old man, with very white hair, a good-humoured, though strong-

(20) A friend here puts the following question.

Why all this trouble in finding the place, when you had been debating with a club of Utilitarians at his house since October 22.—See page 44. Answer. Simply because such is the fact. I had never been at Queen-Square Place but once before, and that was in the evening, by another route, and with a guide. On this occasion I took my way through the park, being so advised by one who knew, that even by day it would be exceedingly difficult for anybody to find the house a second time through Queen-Square Place.

ly-marked face, a true quaker-coat, and a stoop in his gait, entered and began talking to me as if we had known each other for years. A—a welcome to the hermitage—I can't see here (turning away from the light)—a—a—there's my hand—a—a—we must form—a—a—I've heard of you—a—a—anti-holy alliance together. I made the best reply in my power, delighted with his cordial strange way, though sorely puzzled to make out what he said. "Just time enough to look at my garden—a—a—" clapping on a large straw hat as he spoke, with a green ribbon to it (the reader will not forget the season of the year), and grasping a cane. I thought of Parry here, the veracious Parry; but on the whole, as it was very dark, I did not feel much afraid of being mistaken for the keeper of a gray-haired lunatic. Yet I was half afraid to offer my arm at first; and when I did, he threw it aside with a laugh, and I began to prepare for a trot, as described by that facetious gentleman, up one street and down another. Away we went as fast as we could go, he keeping a little ahead, and talking away as fast as ever, though with a slight hesitation of speech, hardly perceptible at first. N. B. He is the founder of the Utilitarian school of oratory. This way, this way, said he, as we drew near another part of his large garden, this way now; taking my arm as he spoke; I'll show you—this is classical ground—a—a—much to *classicalize* it. I had no time to bow, nor would he have seen me if I had. Rush (21) was here, a—a—down on your marrow-bones,—a—a—I gave him a piece of the balustrade of Milton's house—a—a there it is (pointing to the back side of a two-story brick house) that belongs to me—a—a—large garden—the largest here that looks upon the park, except the royal-gardens—a—a—now it is dinner time.

(21) Rush, our late Minister to England.

This over, he led me up to what he called his work-shop ; a small crowded room, with a false floor occupying two-thirds of it ; a sort of raised platform, with a table on it, just large enough for himself, his two secretaries, and one guest—he never had more. I had what he called the seat of honour, opposite the sage, with Mr. Secretary Doane at my right, and the other at my left. I had been told, I know not how many queer stories about the household economy of the philosopher ; but they were all very far from the truth. He began with removing a cover—judge of my amazement to see one potato in the dish, and but one. It was large and mealy, to be sure ; but hardly a mouthful for a hungry man, who had long passed his regular dinner-hour. But while I was wondering at the simplicity and straight-forwardness of the philosopher, who fell upon the potato, broke it up, and began peeling it with his fingers, a tureen of capital soup was served ; and I was directed to a bottle of Burgundy that stood on my right, and a bottle of Madeira on my left, which, as the philosopher himself never tasted wine, were probably intended for his two secretaries and myself. To the soup succeeded oyster-patties, a very savoury dish under the management of his cook. Then we had plum-pudding, apple-pie, and beef ; and while he ate of the two former as a first course (22), such being the fashion of his youth, we were served with the beef ; and while we partook of the plum-pudding and apple-pie, he *took* beef, as we say here. I mention the courses, and the very dishes, and the order in which they appeared, thus particularly, because of the strange stories that are abroad on the subject, all of which are not only untrue, but ridiculously untrue. He talked a good deal after the heavy work of the dinner was through ; and his conversation was delightful, not so much

(22) As the old-fashioned of our country still do. You know the law reader—he that eats most pudding shall have most meat.

on account of the subject or the language, though the former was full of interest, and the latter good enough to satisfy me, as on account of the general, unaffected pleasantry of his manner, with here a dash of good-natured sarcasm, and there a sprinkle of downright roguishness. I should not say of Mr. Bentham that he had much of the manner of the old school, or any thing of a high-bred air; but he had what I cannot help revering and loving much more, a playful and easy manner, like that of one who is tired of being upon his good behaviour, and is glad to let a stranger see the inside of that which all but a very few are only permitted to judge of by the outside—his real character.

As soon as the two secretaries had retired, which was immediately after dinner, he spoke freely of himself, his works, and his followers—or disciples. Mr. Mill, the father, he said, was his disciple, Ricardo, Mill's. Ricardo therefore was his grand-disciple. I am trying now, and I shall hereafter try, in every similar case, to present not only the ideas, but the very language of Mr. Bentham after dinner. Speaking of Mr. Adams, our late President of the United States, he observed that Mr. A. once avowed himself to be, sitting in that very chair, a *Platonic Trinitarian*. A Platonic Trinitarian! said I; upon my word, Sir, I should like to know what he meant. I should *not*, said he, with a smile; as if he did not much care. *This* penitentiary plan,—he said, while speaking of ours in the United States, concerning which he made many particular and earnest enquiries, the answers to which he frequently interrupted with, Good God, only think of that! Lord God, (23) only think of that!—would have been adopted thirty years before; but he offend-

(23) Says the friend before referred to—'You quote Bentham as saying, Good God, Lord God, &c. in the same line. As you may have omitted much that is beautiful in his conversation, as it regards peculiarity of expression, is it fair to give vulgarities or puerilities?' Ans. These are not puerilities—they are characteristic peculiarities. They are a part of his natural language; and therefore do I give them, and for nothing else.

ed the king, who answered one of his papers, about Sweden, I believe, by maintaining that a certain course of policy adopted by the British government was designed to check the power of Russia. At first he could not believe that the reply was actually written by the late George—but became afterwards satisfied of the fact, on the authority, if I do not mistake, of Lord Shelburne (24). It was undoubtedly true that his majesty did occasionally write for the paper in which the reply appeared; and that he also wrote on agriculture, in Arthur Young's celebrated work, under the signature of Robinson (25). Nearly three hours had now been passed at the table, in uninterrupted conversation, when tea appeared, which he

(24) Under the Rockingham Administration, formed in 1787, Mr. Fox and Lord Shelburne were the principal Secretaries of State. In 1781 the *Fragment on Government*, by Mr. Bentham, brought the Earl of Shelburne to visit him at a garret in Lincoln's Inn—a very considerable intimacy and friendship followed. The Earl was Judge Blackstone's *patron*—a breach followed between these two after the *Fragment* appeared.

(25) I have before me now a note in manuscript sent years ago, by Jeremy Bentham to Sir Francis Burdett, for the purpose of engaging him in the support of a Bill for the erection of a new prison at Tothill-fields. The writer had prepared it, with a view to the celebrated *PANOPTICON*. "You know, or you do not know," said Bentham, "that Pitt the second, and Lord Melville the first, were approvers; Pitt with as much warmth as he was capable of, Melville with parliamentary publicity and privately-declared enthusiasm, of my brother's invention,* as therein displayed, and the application made by me of it; and that on that ground in the first place all *prisoners*, and in the next place all *paupers*, as they and Rose† gave me to understand, were intended by them to have been put into my hands—Pitt and Rose having the magnanimity to give up their already-particularized pauper-scheme, after perusal of the public exposure I had made of it: that the faith of Parliament was by ——— pledged to the prison part of the scheme, and land at Mill-Bank‡ half a mile in length, put into my possession in consequence, and that for a term of years (I do not at this moment recollect how many) more than the siege of Troy lasted. Pitt persevered against the veto, opposed by George the Third, whose unassuageable hatred I had provoked by the part taken by me on the occasion of the French revolution, in and by my work on the Judiciary Establishment 1790–91, and a little before that, by my opposition to an unprovoked war, endeavoured at by him against Catharine II. in support of another provoked war he had induced Gustavus of Sweden to make for her, by which two wars, or rumours of wars, was produced a newspaper-war on the same ground, between his said most sacred and anointed Majesty, who fought in person, and your unanointed humble servant."

* Alluding here to the *Panopticon*, as first designed for a manufactory, by General Sir Samuel Bentham.

† George Rose.

‡ Where the Penitentiary now is—a dead failure.

accompanied with a remark that he loved to get drunk three times a day—on tea and coffee: for what was drunkenness but intemperate exhilaration? Black tea he was very fond of; he drank it in large quantities. But green was bad for him; he had used it altogether once, but after overcoming his aversion to black, the green used to give him a severe pain if he touched it. After this, he spoke of Thompson's *Wealth*, a work published a little time before, by a perverse and whimsical though somewhat clever Irishman, who being invited for a few days to Queen-Square Place, actually seated himself there and made it his home for months, although after a few days he never saw the master, even to eat with him; but was furnished with a separate table. I staid till half-past ten, by particular and repeated invitation, to see him put on his night-cap, while he talked about our Franklin, evidently very much gratified by my recognition of the great resemblance they bore to each other; and gave me the history of a bust, which, though it was made for Franklin at Paris, by an eminent sculptor, and was an admitted likeness by every body that knew the original, had been bought by Ricardo for Mill, and sent to him, as a likeness of Bentham. Before we parted, however, he grew inquisitive about other of our distinguished countrymen, and particularly about Mr. B——, of whose talents he thought very highly, though he shuddered when he spoke of his principles. The way he came to know Mr. B. was this—he heard from his publisher that an American, who lived in obscurity, and appeared to be a superior man, had given him a general order for a copy of every thing, whatever it was, of which Mr. Bentham was the author. Subsequent enquiries led to a further knowledge of Mr. B., who was invited to Queen-Square Place, and remained there for a considerable time, as well as at Mr. Bentham's country-house. And here I might stop, and I should stop, in my ac-

count of what he said of that powerful, bad man, who, but for an accident alike disastrous and happy, might have been at this hour, the despotic ruler of a part of our country, were I not afraid that what he said to Mr. Bentham, he may have said to others, and that therefore unless contradicted when alive, it may soon be too late to confront him with the accuser, even though he should desire it for the reputation of our country. I observed that Mr. Bentham directed his enquiries to one particular point which diverted me at first, and then startled me. He desired to know whether Mr. B. had the reputation of being wonderfully fortunate with women of character; and when I replied in the negative, and asked him why,—he smiled and spoke as if that impression had been laboured into him by the exile, who boasted of having intrigued with several of our first women, and even went so far as to say positively that the wife of one of our presidents had been his mistress before marriage. I was thunderstruck at the horrible audacity of the man—for not content with this, he had mentioned her name. I told Mr. Bentham without scruple that the whole story was utterly and abominably false, that I knew her by reputation, and that the bare possibility of such a thing, the bare suspicion of its truth, would not only exclude a woman here from good society, but her husband, whatever were the worth of his character, from every high office of the country. Are such things to be circulated throughout Europe, for twenty years, without reproof or contradiction, because forsooth, they are only repeated at the dinner-table? I say no. Are we to be satisfied with speech, when there is more virtue in writing? I say no. And I rejoice in the opportunity now afforded me of contradicting it, with deliberation and solemnity here, as I contradicted it there in the hurry and storm of outraged feeling. Nor should I stop here—the man who but lives now by the toleration of a despised law, not satisfied with calumniating

the first and fairest of our whole country, had the courage to tell another, who knew little or nothing of his true history, that he had killed his adversary in a duel, because he had threatened to do so not long before, that he meant to put him to death when he took the field, and that he gloried in the result. By his own account of the affair, said Mr. Bentham, I thought he must be a cold-blooded and atrocious ruffian. I might refer also to the proposition made by Mr. B.—a father—touching the daughter he sent for, and who was not long afterwards I believe lost at sea; but I forbear.

And now let me finish this account of our first interview. The greatest oddities I saw in our philosopher were these: he had potatoes, apple-pie and tomatos, all on his plate at the same time, a habit with which our people are reproached by every English traveller that we see; he wore a striped calico waistcoat; he rubbed and scratched continually after dinner, being troubled with a cutaneous disease, of which he is now cured; and used—for a spit-box, even at the table, and every few minutes after the cloth was removed—an article which I never saw in use before out of a bed-chamber; and what was yet more extraordinary, he always lifted it up so that I could not help seeing the edge and form whenever he used it. He ate with a good relish, and heartily enough; and though nearer 79 than 78, to borrow his own language, conversed with unabated pleasure, and probably with unabated vigour; for there is nothing in the best of his works superior to a few accidents of his conversation after he had swallowed his tea. When we parted, he engaged me for the following Wednesday; and thus every week, he did so for every successive Wednesday, till I became an established inmate of Q. S. P.

CHAPTER IV.

Bentham's Reminiscences—Garrick in Abel Drugger—Effect of old age—Parry—the Panopticon—His Theory of Punishments and Rewards—Style—Work on Evidence—Father—His first attempt in the Law—Dumont—Rough Language—Summer Dress—Fear of Ghosts—Origin of Bentham—His Father—Sleeps standing—Avowal—Butler—Col. Young—Writing—Music—Phrenology—Benchers, what?—Domestic Habits—Fun of the Secretaries—Father—Wedderbourne—The Musical Society—His Grandmother—Erskine—Step-mother.

NOTHING could be more delightful than the vigorous, free, and spirited sketches of men and manners which Mr. Bentham threw off, almost without knowing it, certainly without effort, in his familiar conversation. They were never finished, never laboured-up to be sure; but they were all alive with the touches of a master; of one who knew the interior as well as the exterior of what he described.

He had seen Garrick in his best character—Abel Drugger, and remembered him perfectly. He liked him best in comedy. After knowing more of Mr. Bentham's mind, his good-natured detestation of poetry, his horror of tragedy, his fondness for the most childish pantomime, and his utter incapability of relishing either wit or sublimity, though broad humour, playfulness, and common-sense, never had a more active, nor better qualified worshipper; I used to smile whenever the recollection of this remark flitted over my memory. Perhaps Garrick never did appear to greater advantage than in Abel Drugger; but there was something so absolutely laughable in the very idea of Mr. Bentham's undertaking to judge of him in the serious drama, which he hated with unqualified, unappeasable hatred, that I never can think of it now, without thinking at the same time of the fel-

low that played the cock in Hamlet. Mr. Bentham is a lover of truth,—and every thing is judged of by him therefore, according as it approaches or departs from that standard.

He once belonged to a club of which Dr. Johnson was a member : and he always regarded him as a narrow-minded, brutal, bigoted ruffian, who *looked upon majesty with the eyes of a country schoolmaster*. He knew Hogarth also, and took tea with him—has no relish for Wilkie, whenever he thinks of Hogarth and his moral painting. Wilkie's paintings have no moral. Speaking of Lafayette, for whom he appeared to entertain the warmest affection, and who was then a subject of general newspaper-remark, he observed that this second father of our country, as our flash-writers call him, would speak beautiful English for an hour together; that he was what *he* should call a great speaker, and a great man both as a moralist and as a politician; did not know whether he was intellectually great or profound however.

At this, our second interview, he assured me that he could not distinguish between the taste of a pheasant and that of a mutton-chop; both were before us at the time he made the remark; and the pheasant, which to be sure is a tough, insipid, unmanageable bird if cooked too early (26), had been kept till strongly charged with the game-flavour. He acknowledged however that he could perceive a difference in the *brevity* and *conciseness* of the flesh, when asked by the

(26) *How to manage a Pheasant*.—"Instead of *sus. per col*, suspend it by one of the long tail-feathers, and the pheasant's *falling from it*, is the *criterion of its ripeness* and readiness for the spit."—*Kitchner*.

But another says—"that the detachment of the feathers cannot take place until the body has advanced more than one degree beyond the state of whole-some *haut-gout*, and become *trop mortifié*; and that to enjoy the game in perfection, you must have a *brace of birds killed the same day*; these are to be put in *suspense*, as above directed—and when one of them *drops*, the hour is come for the spit *to be introduced to the other*."—*Cook's Oracle*.

"The pheasant should only be eaten when the *blood runs from the bill*, which is commonly about six or seven days after it has been killed; otherwise it will have no more savour than a common fowl."—*Ude*.

secretary on his left, in those very words. But, said I, this may be done by the touch of the teeth; by feeling therefore instead of taste. He agreed with me. Perhaps a decay of the sense of smell might be the true cause of that inability to distinguish in taste, I added; for it is a well known fact, that people who are fond of cigars, do not know whether a cigar is lighted or not, if you blindfold them and pinch their noses. Good God, only think o' that! said he, when I assured him that I myself had seen the experiment tried more than once, though to be sure I attributed something to the severity of the pinch. As to many kinds of meats, however, it seems probable that we distinguish them altogether by the sense of smell. Strong beer has been received for the best Madeira by a good judge, after the palate was saturated with flavour. But Mr. Bentham assured me that he could not even detect the odour of a rose. Not long before, he was haunted with the continual odour of something, he knew not what, which was no otherwise disagreeable than as it was connected in his mind with the idea of imperfection. If he submitted a rose to the sense during the period he spoke of, "A smell was active; though not the smell of the rose. It was quite another smell."

I watched my opportunity this evening, and alluded to Parry—Captain Parry, the authority of the North American Review, for January 1828. Captain Parry—*Major* Parry he calls *himself*; said Mr. Bentham, with decided emphasis, and a little anger. He lied—he dined with me, and went away drunk; we dined at six, my usual hour, instead of eight or nine. The secretary on his right and the secretary on his left, appeared rather blank too, at the mention of Parry.

At this interview, Mr. Bentham gave me a copy of the Panopticon: he appeared bitterly aggrieved, outraged, by the disappointment alluded to before, in the failure to establish a Panopticon by the govern-

ment, after they had entered into a contract for the purpose. It would undoubtedly have turned out a mine of wealth to him, and a prodigious pecuniary saving to the British empire, to say nothing of the success of the principal object; a thorough and safe, because gradual reform of the whole system of criminal jurisprudence, throughout Europe and America.

He wrote the *Theory of Punishments and Rewards*,—a work prepared with a view to this magnificent object *only*, though now studied by all the statesmen of Europe for itself alone,—partly in English, partly in French; was far too scrupulous with regard to style, he thought; never satisfied with the harmony of a sentence, nor with the perspicuity and power of English. And therefore he adopted the French, because in French forsooth, his deficiencies were not so perceptible to himself. Many will never understand this; but they who have gone over and over the same page, sounding it aloud as it were in the very depth of their hearts, sentence by sentence, till they are fritted through every fibre with a fever that cannot be soothed; till they shrink with a diseased nerve, and a childish, though preternatural anxiety, at every jar in the smooth ringing of their words, unable to endure the clashing of un-pronounceable consonants, and casting about their language, into every variety of shape, to avoid the union of ds with ds, or ts with ts, or vs with fs, or any two letters of the same or a similar sound with each other,—all who have been affected in this way, and who that ever wrote much without indulging in robust and healthy exercise, ever escaped? will understand and pity the nervousness that drove Jeremy Bentham to write in a foreign language.

At last, on Saturday, Dec. 17, I removed to the hermitage, with a view chiefly to finish a work on Evidence, which Mr. Bentham had begun years before, and partly carried through the press, but abandoned—he never knew why—with the manuscripts all be-

fore him ; which manuscripts had passed through the hands of three different individuals, for the very same purpose, (27) before he begged me to do what he felt assured I could do in three weeks. It would have required double that number of months to decipher and arrange the papers. After I had spent a week or two upon them, at the rate of several hours a day, with a severe head-ache, for the language and characters were both unreadable, and the argument was entirely lost, he drew me off to prepare a paper for the Westminster Review; after which I was never able to complete the work (though I went to it over and over again before I left the country) in consequence partly of other projects suggested by him, and partly of others that originated with myself.

My situation was now all that heart could desire. I had a glorious library at my elbow, a fine large comfortable study, warmed with a steam-engine (rather out of repair) the deficiencies whereof were supplied by coal ; exercise-ground, society, and retirement all within my reach. In fact, there I spent the happiest, and I believe the most useful days I had ever passed at that period of my life. Is it a reproach to me that I love to speak of them? that every incident is to my memory now, as a cup brimming with wine?

DIARY. Dec. 17. At dinner to-day, Mr. Bentham spoke freely of his father ; he was an attorney ; a weak man. After which he observed that he himself, when he took to the law, suffered exceedingly for the want of reports. All reports were in manuscript then. On a particular occasion, said he, I gave a legal opinion, which turned out not to be law, because the law had been altered without my know-

(27) Mr. John Mill, Mr. Bingham, and another, who, if I do not mistake, was Mr. Hill, the barrister. Mr. John Mill took away the marrow of it for the larger work on Evidence ; why, nobody knew,—for he was not paid by the page *there* to see it through the press.

ledge or consent. I refused to give an opinion after this. The case mentioned however, was put into the hands of Lord Kenyon (I believe) who also gave an opinion. I lost—he gained. He could make nothing of it, and was paid for proving as much at the parties' cost. I acknowledged that I could make nothing of it—and suffered by proving the wherefore at my own cost.

I could not help imagining as he went through the history of this early error, how much of his subsequent views of the law, the lawyers, and the judges of England, might be owing to this very incident. Many a lawyer has had his whole course of study changed by a similar event. I happen to know several, and may be permitted to mention one. A small book, published in this country, and entitled *Greenleaf's Cases*,—which is a collection of cases doubted, modified, and over-ruled—alphabetically arranged for immediate reference, would never have been made, but for the unfortunate issue of an early case with the author. He had come to court, fully prepared to establish every point by the law authorities, and by *all* the law authorities he had ever been allowed an opportunity of studying. That is all very well, said the judge, after hearing him through—very well, indeed, sir; but you do not appear to have studied such a case, naming it. Our youthful practitioner read the page referred to—was astounded, overwhelmed to perceive that *his* law was no longer the law of the land; left the court, went back to his solitary study, and began forthwith to save all the cases that fell in his way, of a doubtful character. Most of Mr. Bentham's peculiar views, peculiar habits, and peculiar figures, I believe I might say all, may be traced in the same way to incidents connected with his youth; his hatred of English law and of English lawyers, of Blackstone, of Mansfield, and of Eldon—to his fortunate failure in the profession. Other facts of the same nature will appear, in the further development of his character.

After this, he spoke of M. Dumont, whom, in his half-pleasant, half-serious, odd way, he charged with blasphemy, in one of his editorial notes. I don't know where to look for it, he added—I never saw it; I never read any thing of my own or his—cannot bear it. However, *you* may—a—a—there, there—look for it, in what he says on the subject of degrees of persuasion in evidence—a—a—what *says* he? I found the passage. It was pretty well, though any thing but an answer to the text which he designed to controvert. Ah—ah, said Mr. B. as I read it over aloud—so *he* could not say how many degrees, hey? Is that any reason why another who *can* say, shall not be *permitted* to say how many degrees there are in a given piece of testimony? No man is obliged to make use of the scale; it may do some good, it can do no harm; of most use to the judges. Here I asked him why printed blanks might not be used, to be filled up in every cause by the judge, as a check upon his own rough estimate of the value of testimony, if nothing more. Yes—yes—what do *you* think of Dumont and his note? A very honest and very clever man said I; but I see no force, no radical force in the objection. Ah—a—a—it may be well for you to read all these works, English and French both, to give some account of them.

By this time, the philosopher had got his coat off, the dinner being out of the way, and sat before me so that nothing was visible but the shirt, which was all open at the bosom; into which he had thrust one arm, up to the elbow, and was rubbing away with an ivory paper-cutter. By and by, while searching for the water-bottle, he broke out, with Cursed bitch has carried my, my—a—a—a—no here 'tis. I laughed at his manner—it was so unlike any thing I had ever seen off the stage. Moliere would have been delighted with every word, Matthews, with every look—so pleasant, so pettish, so affectedly wrathful, and so fidgetty were they. You call names

with a very good natured air, said I. I'm a cursed dog for it, said he, scratching away, I removed it myself to assist her in clearing up for tea; *two* cursed dogs therefore.

I had now leisure to observe his library, which occupied two whole sides of the room here, and a plain deal book-case at the end of the table, as represented in the sketch by Sully. The platform under us, he told me was contrived to make room for rubbish, old manuscript, &c. The library below was very large, consisting I dare say of two or three thousand volumes, most of which were old and valuable editions of the best works of their age. (28)

18th—19th—20th. We had further conversation about M. Dumont, whose character and history I wanted much to know something of. For a Frenchman, said I, he did remarkably well with what you say of English law; his habits as a lawyer were against his perception of your rule for estimating the worth of testimony by degrees, marked upon a table. Not a lawyer, said he—not a Frenchman—a Genevese; they speak French at Geneva, but do not consider themselves French. No, no—not a lawyer, I say—but acquainted with the practice of law, that was what I intended to say; too much of a book-lawyer. (29) True true—yes yes. Dumont was here for

(28) Never shall I forget a scene that occurred just before I left the country. By little and little, by borrowing and taking without leave, which he was permitted to do—in the course of several years Mill the father had contrived to get from five to seven hundred volumes of the best of this library into his own study. Shelves were made for them, and the key was kept by himself; and so far did he carry his notions of proprietorship, that Mr. Bentham, who had suffered once by not being able to get a peep at his own books, when Mill the borrower was in the country, begged him to be so very obliging as to leave the key. But Mr. Mill—do you think he did it? No. He marched off into the country as before, and Mr. Bentham had to wait a whole month for a peep. At last, George, his nephew, arrived from France, and being the heir of his uncle's property, it was thought well enough to make a list, if nothing more, of the books borrowed by the two Mills. I need not say how the matter proceeded—but it ended in the restoration of two or three thousand dollars worth of books, which, on the death of the owner, *might* have been lost to the heir.

(29) M. Dumont says in the *Traité des Preuves Judiciaires*, 2: 136. "*Depuis que j'ai suivi notre tribunal à Genève, J'ai,*" etc. etc.

several years, but never could understand our course of procedure. But for him, these books never would have seen the light—I was so taken up with the Panopticon.

21st. Calls me every day to walk in the garden with him before dinner. Halloos like a man-of-war's boat-swain in a storm; good practice for the lungs—thinks they are strengthened by it, as they undoubtedly are. When he began to halloo, he could not make himself heard in the library; now the whole neighbourhood may hear him. I observe to-day that his real stature, before he began to stoop, must have been about five-feet-six. I do not know that I ever saw a finer picture than this old man, hurrying away on a respectable trot, with a cane that he calls *dapple*, after the favourite mule of Sancho Panza; a plain, single-breasted coat of a dark greenish olive; white hair, as white, as plentiful, and curved about as much as the mane of a horse; a straw hat, edged and banded with a bright green ribbon; thick woollen stockings, rolled up over his knees outside of a pair of drab cloth trowsers, (He hates breeches—never could look at himself in breeches without laughing, he says); a waistcoat of thin striped calico, all open at the bosom—a dress, take it all together, which he wears, not only in the depth of winter, but in the heat of summer.

To-day he acknowledged with an affected seriousness, which I could not help thinking was not altogether assumed, that he was afraid of ghosts, and that he durst not open his eyes in the dark. Nevertheless, when he came to argue the matter with himself, he said, he found no difficulty in satisfying his own mind that there could be no such thing as a real ghost; for, added he, if there are ghosts, they *must* appear either clothed or not clothed. But they never appear *not* clothed—of course, therefore, they are obliged to appear in the ghost of clothes too. That's my

exhaustive mode of reasoning—all creatures are either ghosts or non-ghosts, lawyers or non-lawyers.

I wanted to call his name Ben-tham (instead of Bent-ham, the pronounciation they give it in England), as being less French and more English; and rallied him upon what I affected to believe a corruption of the more vulgar name of Cruikshank—Bent-ham. But he had another and a better root by far. Ham was an abbreviation of hamlet, a small village; (30) hence Bucking-ham. There were two little villages in Yorkshire now of that name, he said; perhaps he intended to say Essex or Surry; for there is a hamlet in Surry, on the Thames, not more than a dozen miles from Q. S. P., which is called Ham; and two in Essex, one called East-Ham, six or eight miles from London, the other West-Ham, near Stratford. There is also a town of the same name in France, forty or fifty miles from Amiens, on the Somme. Two others might be mentioned; that is, Bentheim, a county of Hanover, and Bentheim, a town in Ireland, in the county of Bentheim,—if it were only to remind the reader of the pleasant wilfulness of Dr. Franklin, who persisted in deriving his name from *Franklin*, a small farmer.

In the course of the week, he told me a capital story of his father, who got seriously offended with a clerk in some public office, to whom he had never done a favour in his life,—because the clerk had never complimented him with any of the government paper and stationary. It was no joke neither, said he, throwing up his white hair with a jerk of his fore-finger, and sticking out his right elbow after a fashion he had fallen into—a fashion peculiar enough to identify any man alive, though not to be described on paper without a drawing; no joke neither, *for he charged him with it!* Perhaps it may be well to inform the reader, that the stationary-bill of the British government is made

(30) Properly from the Saxon *Ham*—for a house or farm.

to cover a prodigious quantity, presented by all the clerks to all their friends and acquaintances, if they like. In that country I had several correspondents, who never wrote me on any other than government-paper; and to this day letters arrive almost always on the same sort of sheet-franks.

25. Sunday. Mr. B. sleeps standing after dinner; fell once he says, and hurt himself on the elbows; the approaches of sleep are extremely delightful, he adds, being half asleep at the time. He sits up in bed in the morning to enjoy the approaches of sleep—not to sleep. And here it may not be amiss to describe the bed. The philosopher sleeps in a bag, and sometimes with his coat on; the bed not being made up for a month together. Somebody had pointed out to him a note by the translator of Dumont's *Preuves Judiciaires* (p. 336), in which the translator into English had attacked Mr. B. as profoundly ignorant of equity procedure. He laughed heartily and sincerely when he read it—did not recollect having seen it before, though Mr. Doane, his clever secretary, had read it to him when it first appeared, as we discovered when Mr. D. came up to tea.

27th. I am naturally a weak mind, said he to-day. All that can be said for me is, that I have made the most of it. Charles Butler (alluding to Mr. Butler, the learned editor of *Littleton*), has applied to Bowring for assistance about the history of literature in the West; a sort of literary coxcomb, though a good compiler, added he. The lord chancellor once wrote him a letter, *which he got framed and hung up in his office.*

To-day Col. Young, late secretary to the Marquis of Hastings, in the government of India, dined with us. When Mr. B. brought us together, it was in the following way:—Here colonel—here N.; this is col. Young, no better than a Scotchman; that is J. N., he's no better than a Yankee. Notwithstanding this,

however, I found the personage introduced, to be a very superior man.

N. B. I find by referring to my diary, that I have not always marked the date; which would be no otherwise material than as a matter of curiosity with a very few, or as a ground of corroboration or contradiction. Where the dates are preserved, I shall give them hereafter; in every other case, merely copy the memoranda.

Mr. Bentham never could learn to dance,—it was torture to him, he said; and yet he has a remarkably good ear, and has played the organ with a masterly touch. He had suffered cruelly once when a boy; never should forget it. He was on a visit somewhere, and of course on his good behaviour. A beautiful child was there without a partner; he had been looking at her, and thought her the prettiest girl he had ever seen. At last somebody *asked* him to dance with her; he was obliged to say no—and was ready to cut his own throat.

I must now give two or three specimens of the peculiar phraseology at Q. S. P. Instead of saying to the secretary on my left, please to touch the bell, or please to ring it, he says *make-ringtion*; (31) and this, not merely for the joke, but in sober earnest, though intended for a caricature of his own' theory. But he, and the secretary on my left, who has lately betaken himself to the church, are in the habit of substituting words, which though synonymous at law, are not so in practice. Instead of saying a *rich* paste, they say an *opulent* paste; for *shortness*, they say *bre-vity*; for veal-pie, the *basis* of that pie is veal; for good mutton, *virtuous* mutton; for pretty-good, or apparently-good, *plausible*; and so with I know not how many more words; all which from the mouth of Mr. B. the philosopher and the humourist, the great

(31) The slang dictionary has it—*jangle the tinkler*.

and good, though whimsical old man, is rather diverting than otherwise. But when repeated by a youth, and with imperturbable gravity, as if a new mode of speech were to be learned by those who had the honour of eating at the table of his preceptor, it was infinitely diverting.

Speaking of the time of trouble, the reign of terror in England, when the ministry plotted and counter-plotted with a gang of desperate and foolish conspirators, till the latter were decoyed within the reach of a law whereby most of them were put to death, he said that he himself had expected every day to be prosecuted for what he said of the law, the judges, and the chancellor of England. I wonder you were not, said I. I became a benchman—that saved me—a benchman of Lincoln's Inn—a—a—no example of the prosecution of a benchman. What is a benchman pray? He sits at the upper end of the table behind a screen, where they (the benchmen) *guttle* and *guzzle* out of sight of the commonalty, who pay for *their* benefit.

Jan. 7, 1826. N. said he, when we met to-day at dinner,—you must join with me against the Holy Alliance. That I will, said I, laughing at the seriousness, with which he repeated his original proposition. Speaking of his code, the constitutional code perhaps, or that which was preliminary to it, and sketched out in his correspondence with Count Toreno, he observed that Bowring had objected to the passage where he had found fault with the Spaniards for making their representatives non-eligible. I was very hard on them there—said he—a—a—I have changed now; just found a substitute, so as to retain all the experience without any of the risk. He then proceeded to explain the object of what he denominated the continuation-committee—an admirable expedient by the way, and worthy of profound consideration here.

Mr. Doane plays the organ a few minutes before dinner, while Mr. B. is *fetching* his walk in the gar-

den. Mr. D. is very fond of music, and has no other opportunity to try over a modern air; as the philosopher, though passionately fond of it also, cannot endure either Von Weber or Rossini—Der Freischutz or the opera, or any thing indeed but Handel. When this same secretary was quite a boy—he is not more than five and twenty now,—happening to be at work on a favourite passage for Mr. B. a stop got out of order, and kept squeaking till he lost all patience and charged the poor lad with playing false—the youth replied—the philosopher repeated the charge—the stop squeaked on—there was no stop *to* it, as we say in America—a quarrel ensued—the high-spirited youth took advantage of a hint, and with a note for his father walked off. But the quarrel was short; both were sorry—each loved the other, and the benevolent old man could not well do without the society of the good-humoured, intelligent boy. A letter or two passed—a brief interview followed between third parties—another, tears on the part of the philosopher, and perhaps on the part of the boy, and by the end of the day a complete reconciliation, which has never been disturbed since.

When Mr. B. goes to bed, he leaves a watch upon the table, which, at a preconcerted signal, is wound up and carried to him by the secretary, whose turn it may be to sit up and read him to sleep; an office performed for him now altogether by the embryo-churchman. While I was there I took it upon myself two or three times, and always found him fast asleep at the bottom of the first page at furthest, and absolutely incapable of perceiving whether I read the same passage over and over again or not, before I was half through. Nevertheless, he will not acknowledge that he loves to be read to sleep—oh no! but he wishes to save time. Having no leisure himself to read—none to hear others read, save when he is either asleep, or dropping asleep, all this economy of *his* time and

waste of another's, our codifier and reformer of all sorts of bad husbandry, unthriftiness, and prodigality in states, persuaded himself to be good management in a household.

I have sometimes thought, said he, this evening, with a look of solemnity,—whether or no I was not mad. If I am not—such things will come across our thoughts now and then—(To be sure, said I) all the rest of the world must be so. No, said I—their not believing as you do, in cases which are abundantly clear, proves not that they are mad, but that they have not considered the matter as you have. True, true—good God, good God—yes, yes, to be sure; besides, for forty years there was nobody to attack me, except with ridicule and misrepresentation—except in the case I told you of, about eligibility, where Bowring opposed me—and prevailed. I changed my opinion there.

How did your father speak of those works? He had just taken down the *Defence of Usury* from the shelf, and mentioned that the copy had belonged to his father. It was full of letters, and a review from the *Monthly* was wafered into it. I'll tell you, said he, with great eagerness. Jerry said he, on his death-bed, Jerry, you have made a philosopher of me.—I suppose I smiled, for the idea of the old white-haired man before me ever having been called *Jerry—Jerry*, tickled me prodigiously.—He made another will, and left out the name of Christ. I did more than smile now; I laughed. The idea of taking that for a measure of improvement in philosophy was yet more diverting than the other; but he was quite serious.

He was present when Wedderbourne insulted Franklin, who, out of compliment to the occasion, appeared in a magnificent court-dress. The reader will remember that Franklin said, when asked what he intended to do, as he stood at the door, 'touched with noble

anger'—His master shall pay for it; and his master did pay for it,—for the next time the doctor wore that same dress, he was at Versailles, with the treaty between France and the United States of America lying before him. He remembered Franklin, though they were not acquainted then; but he remembered nothing of the court-dress, though he certainly could not say that Franklin did *not* appear in one at the time he was so brutally and fiercely attacked. But he had it from one of the British plenipotentiaries at Versailles at the time of the signing of the treaty (Lord St. Helens, I believe), that Franklin was not ready to sign for several days after the rest; *and at length* it came out, in some way or other, *that he had been waiting for his coat from London*; the only little thing he ever did—his only blot, added Bentham. What if any thing had happened to prevent the signature of the treaty during those three or four days, while the minister of America was waiting for a particular dress to sign it in? What would have been the consequences to the reputation of Dr. Franklin—for good sense—or good husbandry? And what *might* have been the consequences to our country, and to the whole world?

When our philosopher was a young man, he was very unsocial; to cure him, his father managed to have him admitted into a musical society, where he used to go and sit in a corner week after week, without opening his mouth! At Ford-Abbey—a country-seat he took by the year, as much on account of Mr. Mill, who had a large family which he did not know what to do with, as on account of himself, I dare say—he used to fiddle with the exciseman, to the great marvel of the latter. He used to avoid his father after his return from these convivial meetings, and would sit twirling his thumbs by the hour together. At last, regularly, his father would put the following question, and get the following reply. Why Jerry! have

you nothing to say to your poor dear father? What *shall* I say, father!

Of this father's second wife, the mother of the present Lord Colchester, he used to speak uniformly, as Mrs. Jezabel—she always called him, he said, Mr. Jerry. She would drink the roast mutton gravy out of the dish, before it went below—a fact which I have no doubt had a decided influence upon our philosopher's future estimation of the worth of such gravy; for even to this day, it is the only thing whose distribution he watches at the table. Every man to his spoonful, is his motto here. He used to sleep with his granny, who was in the habit of treating herself to the cold mutton for supper, and to an apple, of which he was allowed the *skin*. Much of his inflexible honesty now, in the distribution of fat and lean, crust and crumb, skin and core, to this day, I do believe in my soul may be attributed to this management of his dear old granny. His partialities too—how many of them are traceable to the same fact. He loved the skin yet, and would rather eat the skin of grapes now than the pulp, if he were not forbidden by the doctors. I knew of a case, and mentioned it, where almost every member of a large school, as I was told by one of the young ladies, after she had got to be the mother of young ladies herself, grew fond of stale bread—bread a month or two old by Shrewsbury clock, and all dried up—entirely from seeing the head-instructress put away her crusts with great care, in the holes and corners of the house, and there leave them (to be stolen by the scholars most of the time,) till they were almost incapable of being eaten, and then “munch, and munch, and munch,” like the sailor's wife in Macbeth, till every child's mouth watered that saw her.

He dined with the celebrated Erskine one day, who wished to see him on account of his Fragment on Government, (which Mr. B. has just heard for

the first time, was reprinted years and years ago in Dublin). Erskine was poor—very poor; he was in the office of a special-pleader at the time. Although it was cold weather, he wore a silk summer-dress; he had served not only at sea, but on shore as a soldier. He knew how to cajole a jury; Mr. B. heard him in the celebrated case of Lord George Gordon.

He frequently referred to Dumont, and observed to-day that he was a clergyman; that he received a pension from the British government of £400, in the form of a clerkship, now augmented to £500 by Sidmouth, under *pretence* that his works were the cause. Mr. Bentham was offered a pension—the amount not named—M. Dumont himself was the bearer of the offer. Bentham was angry; and ‘Dumont went away with his tail between his legs.’

My father, said he to-day,—speaking with that air of pleasantry which so distinguished him, when he knew that he was going to affix a label forever to a subject—my father had two ways of settling every difficult question. He would look thoughtful a few minutes, and then he would say—*it is a mystery*; the preliminary of the second case did not vary much, but the words were different. After looking very thoughtful as before, he would say—*it is infatuation*. So that whatever was not a mystery, was infatuation; and whatever was not infatuation, was a mystery.

His father had two pet phrases of great worth to him in the hurry of business. He used to say of somebody, whom he had been in the habit of seeing, that he had *taken himself unto his own hands*—as if that were a thing to reproach him for. If any body should propose to make money by his help, though without any cost or trouble to him, or any sort of accountability on his part, legal or moral, he would refuse with great dignity, saying—*he was not to be made a property of*.

His father had a small library, which he kept lock-

ed up. As he could never unite the idea of amusement with that of instruction, he would not allow Jerry to read any thing that amused him. But Jerry got hold of *Clarissa* one day, and he never stopped till he had finished the story. Richardson was a great favourite with him—to this day, he likes to read a novel in five or six large octavos.

CHAPTER V.

Dr. Parr—Mr. Parkes—Col. Stauhope—Dr. Maculloch—Sympathy—Penal Code—Helvetius—Relatives on the side of the Mother—Poetry—Reading to Sleep—Singular Habit of throwing up his Hair—Ghosts—Marked and Sheared—Bed-chamber Habits—Mr. Smith, M. P.—Breakfast—Fruit before Dinner—His Bed—Servants—Theory and Practice at War—Bowring—Sir F. Burdett—Sir Samuel Romilly—Cobbett—Mr. B.'s Father—Mother-in-Law—Quarrel with ———— Reform in the House—Rhyming—Love of Order—Humanity—Bentham on Style.

DR. PARR used to smoke a pipe whenever he came to see Mr. Bentham, a practice which the latter abhorred. He would either call for his pipe, or come provided with one, and pull it out immediately after dinner. I should not suppose the Philosopher would like it, said I to the secretary on my right. He was obliged to like it, was the reply; he could not have the doctor on any other terms. The doctor used to call Mr. Bentham *Master Jerry*, to his head!

Mr. Joseph Parkes (32), a solicitor from Birmingham, who married an American wife, (the daughter of Dr. Priestley) dined at Q. S. P. to-day. Mr. P. tells me that when he was a boy, Dr. Parr told him to read the works of Bentham—as the greatest man that ever lived; and that not long before, a preacher of the gospel, a very clever man and a fine scholar, who was not suspected by Mr. P. to know any thing of Bentham, in reply to some questions about what book for the last hundred years had done most for the mind, and showed most power and originality, answered *without* hesitation—Bentham's *Morals and Legislation*; add-

(32) Mr. P. is the Solicitor of Warwickshire, author of the History of a Court of Chancery, alluded to by Mr. Brougham, in his celebrated speech on the state of English law.

ing, that Dr. Parr had told him to read it many years before; that he read it accordingly, and had never had but one opinion of it since.

I repeated all this to Mr. Bentham, who laughed and chuckled, and then, by way of a set-off, added—Why, why—a—a—only think—a—a—Doctor—a—a—Parr gave a list to a young lord, who wanted to be directed in his reading, of books for him to read. (I preserve the style here exactly.) Among the rest there was Algernon Sydney on Government—he was to read him over ten times,—and De Lolme and Blackstone, and all the rest of that class—a—a—(laughing a little here, a very little) and no mention made of me. I tried to smooth it off,—perhaps, said I, the doctor was like certain tutors, theologians, and lawyers, who are paid so much a year to oversee—or in other words to overlook—the reading of youth; and whose catalogue of what *should* be read, is but a duplicate catalogue of the books they happen to have in their own library. *They* are acquainted with no other—and why should a younger man wish to do otherwise than they did? Dr. Parr was rather superficial in such matters; and may have recommended the book for two other reasons—to avoid making himself unpopular as your admirer, and to give the young lord stuff that he would be able to digest—milk for babes, lion's meat for men, pap for the nobility. He appeared tolerably satisfied with this, and the subject was dropped.

Col. Stanhope—Leicester Stanhope, the friend of Byron, dined here to-day; a pleasant, gentlemanly man, much overrated by the philosopher of Queen-Square Place. Some conversation took place about a mutual friend, Dr. Macculloch—the geologist, chemist, magazine-writer, Scotchman, traveller, &c. &c. certainly one of the cleverest men of the day, take him altogether. He is affronted with me, said Mr. Bentham, because I told him that people—other peo-

ple, thought him too diffuse. And when we pay by the page, it is natural enough that a man should make the most of what he has to say. He spoke here as the proprietor of the Westminster Review, which he had established and continued at a heavy expense.

To-day I observed an anxiety to please at dinner, which I had not observed before—a sort of nervousness which prepared me for something new. As soon as we were alone together, and he had begun to take his post-prandial vibrations—that is, to walk to and fro in the narrow ditch between the outer wall of the room, and the raised platform described before, the symptoms increased; and by and by, he made a full stop, and turning to me, though without looking me in the face, began thus. My dear N.— I am going to tell you something that has been in my mind now for three months. At this, I began to prick up my ears. He proceeded—Yes and I have been desiring to tell *you*; you know my sympathy for every mind and every body—a—a—. At length he came to the point; he was in the habit of spitting a great deal, and for want of a *spittoon* or spit-box, he used the article mentioned before. And having taken it into his head that I might have a similar inclination, and balk it from a fear of giving trouble, he had concluded after turning it over in his mind for three months, to mention it to me in this way, with unspeakable solemnity. It was quite a relief to me I confess, when he had unburthened his mind—perhaps greater to me than to him after the preliminaries were over.

April 2. Speaking of his Penal Code, he said, there is nothing beyond that. After which he led off in fine style over the reminiscences of his youth. Something I met with in Helvetius (33) made a great im-

(33) Helvetius de l'Esprit, was an attack on religious principles in general: it questioned the foundation of all religions, and left the reader to draw conclusions and make inferences. It came out before Emilius appeared. See

pression upon me—a friar goes to Rome to dispute about the right of wearing a particular dress. Now quoth Helvetius, who knows but that friar may have shown as much acuteness, power of reasoning and knowledge as the profoundest statesman or the greatest warrior that ever lived? Very true—that set me thinking about legislation as the greatest of all enquiries—nothing above that you know. But you had already been occupied in a similar way? said I. Oh yes yes yes; I began to think of doing good before I was seven years old, reading *Telema- chus*. And off he lunched into a delightful account of his relations on the mother's side. Here too the very language of Mr. B. is preserved. I remember then hearing that the relations on my mother's side were remarkably virtuous, and I remember sitting under the tomb-stone of my great-grandfather, hearing of his beneficence. He was a parson; by his frugality and good management, he secured a little

Condorcet's Voltaire, condensed. The author Claude Adrian Helvétius was born in 1715—died in 1791.

The fundamental maxim of the work was *que l'intérêt personnel doit être l'unique base de la morale*—A maxim, says a celebrated French author, which would destroy all virtue, *maxime qui détruiroit toute vertu*. Such were the crude notions of utility, when Helvetius broke ground preparatory to storming the chief bulwarks of error—bulwarks which Paley tried to sap, and which Bentham carried by assault. See the chapter on *Utility* however.

Voltaire (in his *Queries upon the Encyclopedia*,) says of the work de l'Esprit qu'il est un peu confus, qu'il manque de méthode (a great error) et qu'il est gâté par des contes indignes d'un livre de philosophie. And this, although the author was a pupil of his, although a very sincere and hearty friendship existed between them, and the preceptor had borne the following testimony to his poetry, which was about as bad as poetry could well be in French.

Vos vers semblent écrits par la main d'Apollon,
Vouz n'en avez pour fruit que ma reconnaissance ;
Votre livre est dicté par la saine raison
Partez vite, et quittez la France.

Another great object with Helvetius was to show that La sensibilité physique est à-la-fois l'unique source de nos idées et de nos jugements, et qu'enfin *juger n'est que sentir*. *To judge is only to feel*. Bentham's leading principle is the same in fact. Rousseau in his *Emile* combats the doctrine, without mentioning the author by name who was then virtually proscribed for this very work. Tu veux, dit-il tu veux en vain t'avilir, ton génie depose contre tes principes ; ton cœur bienfaisant d'ment ta doctrine, et l'abus même de tes facultés prouve leur excellence en dépit de toi.

fortune for his children. He had a son, a book-seller, who published Tindal's Christianity as old as the Creation—ever see it! No. Oh, yes, yes—made a free-thinker of me before I was thirteen. Before that, my father took a Frenchman into the family and gave him his board for instructing me; *he* was a free-thinker; I read some good books at a very early age in consequence—Voltaire. I remember a scene of sensibility before I was two years old. Ah, said I—how was that? Yes, yes—did I never tell you of it? Never. Oh yes,—a—a—I was on a visit to—a—a—a place which he described as now desolate, the very earth laid bare; went to visit it lately with some friends—nothing left of it. After this he proceeded with the anecdote of his babyhood. Two persons gave him to eat; he eat till he could eat no more. A third offered something; he could not eat it, and so he cried; *cried* he remembers now, because of the distress he felt at the idea of ingratitude; gooseberry-pie was one thing they had.

In his penal code there is a provision for injury done to friendship, by speaking ill of one known to be a friend of the party spoken to. Who ever heard of such a thing before? said he. How much it shows of a man's character. How much indeed! for it was a downright piece of self-deception, calculated to prevent the truth from appearing against anybody whom he had favoured with his friendship. Why should a man shrink from any communication about him to his friend or *to* him about his friend? What injury could it do to a friend or a friendship worth having?

I never knew the sage of Queen-Square Place in a pleasanter humor,—brimfull of joke and laugh, he rallied me not a little for having made poetry, and in the course of our talk repeated the following lines, with a gravity and stateliness never to be sufficiently admired. I shall give what I can of the very cadence he observed.

Two children sliding—*on the ice,*
 All on a summer's day;
 It *so* fell out (*very slow*) they *all* fell in (*pause*)—
 'The rest they ran away.

Now—(*increased solemnity*)—had these children staid at home,
 Or slid upon dry ground,
 (*A pursing out of the mouth here, and a profound shake of the head.*)
 Ten thousand pounds to one pen-ny!
 They had not *all*—been drowned.

At length we parted. Good night, sir, said I—
 well then good night to *you!* if you come to that.

Mr. D. told me that when Mr. J. F. C. the other secretary, went home to see his family, which was about once a week, and it came to his turn to read Mr. Bentham asleep, he used to do it in a jiffy, simply by reading the same page over and over again, in precisely the same tone of voice, without ever troubling himself to turn over; it was all the same to the codifier.

Mr. Bentham, I observe now, has a way of walking with one leg held up stiff,—his wooden-leg they call it here, though nothing is the matter with it: when he is a little disturbed you may hear that leg stumping about overhead, like that which Irving describes in the history of Peter Van Stuyvesant. He has also a habit of sitting with one shoulder higher than the other—ditto one eye-brow—ditto one half of his under lip, as you may see it in the broad caricature of an English sailor. All *this* may be owing to the deafness of one ear; the eye-brow, the lip, and the shoulders would be naturally affected by the muscles of the face and the habit of turning to hear. He sits too with the back of one hand resting in the palm of the other; he should be so painted; for these are confirmed and essentially characteristic habits with him. Another which cannot be painted though it may be described, has been alluded to before. Every minute or two he is in the habit of throwing back the hair from his face and neck, by a singular motion of the left hand. He projects the left elbow horizontally, into the most

awkward of positions ; then curves the whole fore-arm like a child learning to eat with a large spoon, crooks his fore-finger, so as nearly to complete the circle half-described by the arm, and then throws up the hair with a jerk. This he will do every half-minute, while engaged in conversation or walking in the wind. It has a laughable effect in the view of a stranger—he would mistake the right-arm of the sage for a sort of crank, put in motion by the foot below as he walked.

He told me to-day that he was born 14-15 Feb. 1747—3 ; when the old-style was changed there was a change in the year as well as in the day ; it began either in February or March before. I preserve the very language of his *explanation* here.

He shuts the flap of the book-case to hide the hole in the floor, which is occupied by the player at the organ ; the darkness being rather unpleasant to the philosopher, he affects to believe it full of ghosts—not seriously to be sure, but more than half-seriously. He sleeps in his coat now—having ordered the flaps to be cut off, which are too warm for the night, and bring on the heat and itching of the skin, with which he is afflicted after dinner—the *devil* he calls it. Having drawn a line down each side of the middle-seam, with a bit of chalk, he has ordered a strip of the cloth to be cut out and a cord to be let in, like the lacing of stays, to keep his back-bone cool : D.—the mischievous dog he employed for this purpose—having cut off the flaps of the coat and ripped it up in the back, now added the initials of the philosopher's name, as if to provide against his going astray,—putting them in large white letters in the very middle of the back. When I mentioned it, saying—If you escape now, sir, you will be brought home ; instead of being offended, he laughed, said it was a foolish joke, and made the secretary rub it off. Such a figure no mortal ever saw before

out of a mad-house. I cannot think of it to this day without laughing. I can see him now, it is the fourteenth of June, thermometer at 76°;—There he goes with a pair of thick leather gloves on, woollen stockings rolled up over his knees outside, his coat-tail shaved away like a sailor's round-about, and stooping, with his reverend rump, pushed out like that of a young chicken. I made a sketch of his figure, but am half afraid to publish it. He sleeps now with his feet in a bag. On some occasion, wanting an improvement in the shape of his bed, he told the carpenter to jump in, so that he could judge for himself what was wanted. In the fellow jumped, shoes and all covered with mud,—No idea I could sleep in such a place, added our philosopher with the most diverting simplicity on hearing the fact mentioned. I could not help thinking of his regular ablutions every night, and of the cleanliness insisted upon in the Panopticon.

To-day he had invited Mr. John Smith, M. P., the banker, to dine with him; has a return of the itching. I give his very words here. Sent for Smith (scratching away) sent for him—a—a—. Good God, good God—a—a—. God forgive me; very bad indeed (scratching more violently) wonder he don't reply. Very bad, very—didn't send it to the office, no sleep at all—sent time enough to hear—could'nt sleep; that yankee there, nodding to me—see Smith. Good God—a—a—great influence; pimple or two here, (searching his bosom with an ivory paper-cutter), two Richard, two, &c. &c.

I hear to day, though I never knew it before, that he takes two cups of strong coffee in bed every morning; he began with one, but kept increasing, till now he drinks two, still persuading himself that he has not yielded a hair's breadth to the habit: he takes one or two more at twelve o'clock; breakfasts from twelve to three, in two rounds of toast, two rounds of bread-and-butter, a crumpet, a muffin, and a large pot of tea; dines at half-past six.

With all his regard for the comfort of others however, and with all his undeniable and active sympathy, he sometimes, though very rarely, appears to be quite forgetful of others. One day Mr. D., Mr. C. (the other secretary) and myself, had been exercising till we were as hungry as tigers. We were all complaining of the lateness of the hour—at last we were summoned. Up we go, and sit twisting our thumbs, while Mr. B. goes to work on his mealy potatoe,—the first thing he eats at dinner, and that which he appears to enjoy most; that over, we go to the soup, he with his hunger partially allayed, perhaps with fruit, before the dinner was served, (34)—we ready to eat each other. After that, we still yearning for the meat, he orders up the gooseberry-pie, large enough to fill a half-peck measure—and eats about a fourth-part of it. At last I lose all patience, and turn away, while he is eating slowly, the junior secretary reading the middle of a story aloud, the first part of which had been read to him at breakfast, and we sucking our thumbs. I had half a mind to drop a remark about the table-habits of Dr. Johnson, the twenty cups of tea, &c. &c.—you might have turned the new-river through him, if it were tinctured with Bohea—but I was not in the humor for pleasantries, and forbore. Such things did not often occur; he was generally the kindest and most attentive, and self-denying of hosts.

I am told to-day that he has his bed made only when he changes the sheets, that is, about once a month—sometimes not for six weeks; that coffee has been spilt on those he now sleeps in—that it is all spotted and discoloured with his fleecy hosiery, which he wears to bed with him, though wet and muddy; and that sometimes other droll accidents occur, which added to his peculiar night-dress, the truncated cloth-

(34) Dr. Holyoke, who lived to the age of 101, used to eat a good deal of ripe fruit, and always just before dinner. So does Mr. Bentham.

coat, and the bag for his feet, are indeed examples of idiosyncrasy not often to be met with.

But the manner in which he was treated by his own servants and particularly by a fat house-keeper, who had been with him for a great number of years, was the most extraordinary of all comments upon his theory of checks and balances, and expedients for making people do their duty. One or two instances I shall mention here on the authority of Mr. D. One day he had a new Portuguese plant for dinner, which was fried like an egg, in parsley. He was very fond of parsley. Good, very good—Anne—a—a—more parsley; make-ringtion—a—a—Anne, tell cook more parsley; do I make myself clear? more parsley. Anne went down, staid awhile—come back, and said he could not have any more parsley, *because the frying pan was put away*. D. heard this. And for myself I know, that day after day, and week after week, he had desired—not ordered, but *desired* the potatoes to be baked instead of boiled; but never with any correspondent success. And one day this very Anne, told him, on his complaining that there were only four on the table, that there was *no room for more in the boiler!* I have known the mushrooms too, of which his guests were always very fond, magnificent specimens, to pass the window on their way to the kitchen, day after day, without appearing at the table. To those who are acquainted with the minutia of detail in the state-economy of our lawgiver, these facts in his household-economy must be very amusing. He could reform the world, easier than he could regulate his own little establishment. There are no *checks* in the family; everything is trusted to the servants, even the key of the wine-cellar. When the house-keeper is out of money, she sends up and gets a check, and when that is gone she sends for more; he never looks at the account, nor asks for it—nor gets it.

June 12, 1826. Ever hear of a bargain I propose—

a—a—a bargain for the future, said he. Some comfort for my death-bed ; first year of my death will be the first year of my reign ; if you have not, you are the only one of my intimates that has not. I know very well how long I have a right to live at my age ; I look at the tables—four years now ; the longer I live the harder the bargain God Almighty will drive with me. Now I say—here God almighty ; here are four years : Now I'll give up two of the four, if you'll let me take the other two at such intervals as I like—one hundred, two hundred years hence ; I should like to see the effect. (35) Had no answer to the purpose yet—perhaps there may be. Wilberforce or ——— or ———, naming several more, they might have one, or others in a more advanced stage of human discovery.

His health, instead of growing worse, would appear to be growing decidedly better. He used to have the tooth-ache, the ear-ache, the head-ache, and always winter-coughs, till within the last two years—now he is entirely free from all these troublesome and wearing ailments. I see no reason why he should not live to a century.

Nothing amuses us more than the confidential communications that are made to him, about the state of the world, by the only politician he is ever in the habit of seeing. Yesterday he told me confidentially that

(35) To the above a friend says—

This familiar talk with the Deity, although perfectly innocent, will shock many good folks, and lessen their esteem for Bentham and for his biographer. And rely upon it my friend, it is unfair.—Mr. Bentham intended this conversation for an ear that he knew it could not offend.—You expose it to all the world who may choose to hear—and many pure minds that are unused to what our saints would term 'blasphemy' could scarcely forgive either Mr. B. or yourself the indiscretion.—It hurts you, it hurts him, it gratifies none, but your enemies and his.

My answer to all which is, that I am giving a *portrait*, and such a portrait as Bentham, being a lover of truth, would wish to be given. I am betraying nobody. He that was ready and willing to be caricatured by Matthews on the stage, will never object to such fair household portraiture as this. I had thought of all that is urged above by my friend, before I ventured to give this and one or two other similar anecdotes ; but the conclusion I came to was, that I ought to conceal nothing—qualify nothing, which in my view was characteristic. All these things have their value as *truth*.

Mr. Bowring had got a firman (a privilege) to weigh the silver supposed to be on board a certain wreck. The plan, the privilege and all, was a secret. I left him, and the next day, happening to cast my eye over the Morning Chronicle, I found it mentioned there in such a way, and so particularly, as to show that it had been communicated to the Morning Chronicle by Bowring himself—probably on his way up to the very dinner, where he made the confidential communication to Mr. B.

Another day, he spoke to me thus, on the authority of Mr. Bowring. ‘Bowring writes that Morrison, who had offered for Marlow, after refusing the weavers of Norwich, who perhaps might have elected him,—he alleging that he was engaged for Marlow,—had knocked up the tories and whigs, and filled them with confusion and dismay.’ Mr. Bentham had scarcely mentioned the fact, before the Atlas arrived with the polls, proving that Morrison had no sort of chance. When I mentioned the fact to him, he laughed and said—‘A—a—Bowring is like me, *too sanguine*.’

I have just been told by one who was at the table when the circumstance occurred, that Bowring having mentioned one day something favourable, which the Duke of Sussex (youngest brother of the king) had said at seeing a card of Bowring’s, on which Mr. Bentham had written a few words,—Mr. Bentham pulled the bell, and when Anne appeared, addressed the poor girl thus—If the *Duke of Sussex* calls, *I am not at home!*

Speaking of a sensitive author, he said—I cannot imagine how I have offended him. When I told him, to be sure, that people did not like his pamphlet, I took care to add that I knew nothing about the matter myself—I had never read a line of his works in all my life; nothing would do—I could not avoid his wrath. For my own part, I could not help laughing heartily at this mode of averting the wrath of an author.

July 7th. A favourite expression of the lawgiver, when he hears any thing new, is, Lord God, only think o' that! accompanied with a shake of his white hair, and a look of eager surprise, with the forehead thrown back, and the whole head thrust forward. Mr. Bowring told him to-day, that there was good hope of sending four radicals from the city. After the cloth was removed, Mr. Bentham said, speaking of Sir Francis Burdett with whom the people were getting dissatisfied,—‘I advised them to get together the facts concerning his behaviour as a public man, and put them into a pamphlet; and I offered to furnish them with Burdett’s letter to me. I should write to him (Burdett), and not take him by surprise, merely say that I hoped our private friendship would continue; but that as a public man, either he or I could not be a friend to the people.’ I complimented him for this brave sentiment, and open way of dealing with an adversary. This led to some remarks about Sir Samuel Romilly. ‘Just so with Romilly,’ said he, ‘when I was one of the most intimate friends he had, and he one of the most intimate friends I had. He joined the whigs—and I could not agree with him *there*. I remember the very last conversation I had with him, a tête à tête conversation; there was a talk about the seals being offered to him, and I advised him to accept them. But he said they never would be offered; and that if they were, he never would accept them.’ They were a great thing to refuse—may he not have deceived himself sir, and meant exactly what he said? ‘I don’t know—very like; he couldn’t say how he would feel at another time.’ Was he a very superior man, sir? ‘No, not very—the best o’ the whole of them, though; but read his speeches and they amount to nothing; very good though, very good, so far as they went. I gave him the material for one of his speeches. He came to me one day and tried to stop my Reform Catechism.’ Or Church-of-England—I for-

get which, though I should think the latter—as we were talking of that and of Lord Folkstone, a half-radical, who could not swallow a part of the church-work by Bentham, though he was a great admirer of his parliamentary reform-book. ‘My dear Bentham, said Romilly—the narrator shook his head here, and grew more and more impressive and solemn at every word—I wish you would stop that work. It is too late, said I; it is published now. No, no, he replied; certain forms are to be gone through with first; the attorney-general sends a clerk and buys a copy; a measure which I *know* has not been taken. If you do not stop it, *I am as certain as I am of my own existence that you will be prosecuted; and if prosecuted, I am as certain as I am of my own existence that you will be convicted.*’ But Mr. Bentham would not stop it, and did not stop it—nor was he ever prosecuted, though for a long while he lived in the hourly expectation of arrest. We spoke more of Sir Samuel Romilly. He was a man of no conversation; if a subject was ever started, he cut it short with two or three words, and there he stopped. There was no such thing as conversation at his house; Dumont used to dine there often, and we frequently spoke of it. Dumont said they used to sit side by side with each other for half an hour, without speaking.

Perhaps the reader may be gratified to see how Mr. Bentham speaks of Sir Samuel Romilly, the friend, the orator, and the lawyer, elsewhere. In page 70 of the ‘*Indications respecting Lord Eldon*,’ a most violent and abusive though able work, Bentham says, alluding to the manner in which his old friend Mr. Butler had managed to make the buried Sir Samuel Romilly praise the chancellor—that very chancellor, whose complimentary letter to Mr. Butler, he, Mr. Butler, kept hung up and framed in his office for the public eye,—‘But the hand to which he

(Butler) has assigned this task (that of lauding the chancellor,) is the hand of Romilly; that confidence-commanding and uncontradictable hand, which for this purpose, resurrection-man like, he has ravished from the tomb.

‘Having, in the course of between thirty and forty years intimacy, been in the habit of hearing sentiments of so widely different a tendency, on every occasion, delivered in relation to this same person (Lord Eldon),—silence, on an occasion such as the present, would have been so little distinguishable from assent, that I could not sit easy without defending myself against what might otherwise have appeared a contradiction, given to me by my departed and ever-lamented friend.

‘In relation to Lord Eldon, I have no doubt of Romilly’s having used language, which at a distance of time, and for want of sufficient discrimination, might naturally and sincerely enough, by a not unwilling hand, have been improved into a sort of panegyrick thus put into his mouth. But by the simple omission of one part of it, the strictest truth may have the effect of falsehood.

‘By my living friend (Butler), my departed friend (Romilly) was never seen but in a mixt company. Assured I well am, and by the declaration of my departed friend, that between them there was no intimacy. Between my departed friend and myself, confidence was mutual and entire.

‘Romilly was among the earliest, and, for a time, the only efficient one of my disciples.” Here follows a note, saying, “He was brought to me by my earliest—the late *George Wilson*, who, after leading the Norfolk Circuit for many years, retired with silk on his back to his native Scotland.”

‘To Romilly, with that secrecy which prudence dictated, my works, such as they were, were from first to last a text-book; the sort of light in which I

was viewed by him, was in Honourable-House (Parliament) in his own presence, on an ever memorable occasion, attested by our common friend Mr. Brougham.' Here follows another note referring to Hansard's Debates in the House of Commons, June 2nd, 1818, where Mr. Brougham says that 'He agreed with his honourable friend the member for Arundel, Sir Samuel Romilly, who *looked up to Mr. Bentham with the almost filial reverence of a pupil for his tutor.*'

To-day we are favoured with Cobbett's character in little. If a man were to write Cobbett a letter, says Bentham, declaring that a strange report was abroad about some distinguished man, charging him with having murdered another: and then if the writer should go on to say that it could not possibly be true, because the murdered man was actually then alive, and the supposed murderer had been with him (the writer of the letter) at the very time charged—Cobbett is the man that would publish the first part of the story, word for word, perhaps giving the name of the writer, without saying a syllable of the rest; and if he were ever called upon to account for the omission, he would deny the qualification or postscript—and if that was proved, he would say that he had forgotten it, or been mistaken!

Mr. B. never had a quarrel with his father, nor ever but one with his mother-in-law, Mrs. Jezebel, though he gave her a look one day when she drank the roast-mutton gravy out of the dish before she sent away the meat. The quarrel occurred in this way. She had a library of her own. Among her books was Hume's History of England, which he borrowed, and used to carry to the barber's with him, when he went to have his hair dressed. After having read several volumes, he begged another. She sent it, saying, *this must not go to the barber's.* He sent it back immediately, saying, *it has not been to the bar-*

ber's. A somebody, whose true name was Chamberlain Clark, but who went by the name of Shamblin Clark, used to say,—In every other dispute you have had with your step-mother, you have always been in the right—in this, I think you were wrong. If so, how decidedly clear must the other cases have been—for a little hair-powder, if it fell on, could be easily and instantly shaken off.

But Mr. Bentham still entertained a strong though secret allegiance toward the authority of a father. Never shall I forget the look or tone with which he replied to me once, when I said that if I were young Mill, I would remonstrate with his father, touching a very delicate business. A—a—a—said Mr. Bentham; hard thing to say to a father. Young Mill, it appeared, was angry with his father (so Mr. Bentham told me) for having so many children, as he, young M., would have them all to support, if any thing should happen. I would cut adrift, said I. Ah—how—how—hey, hey? I would remonstrate with him; I would say to him, you are making a prisoner of me, you are destroying my utility—I would leave him. Here Mr. B. interrupted me—Well, well—no matter for the speech now—hard thing to say to a father. But the look was the thing—it was a look almost of horror, at the bare idea of a son so dealing with his father; and this in England, where one child may be enough to keep a father poor; *this* between a father and a son, who were the head-believers in utility; *this* where both parties were always urging that population required checks, and always contriving checks for it.

For a long while I had been resolved not to go away, till I had put the philosopher in possession of a few facts, touching the behaviour of his servants, and particularly of the housekeeper, toward the few friends that occasionally called at the door; and especially toward Miss F. Wright, who was a guest with

him for a few weeks. Having prepared to go to the continent in the course of a month, I took advantage of something that occurred one day, to tell him how the housekeeper behaved toward his two secretaries, who had grown up in the house. He grew thoughtful, and appeared to think that there was something else at bottom; but I avoided the enquiry, as he had over and over again begged me to speak to him, if they did not do whatever I desired, promptly and properly. For myself, I had nothing to complain of; though such was the general neglect of the servants, that I should have left him long before, without saying a word, but for my unwillingness to have him suppose that any thing on his part had altered my feelings toward him or his family. If I went, I must give a reason; and if I gave a reason, it must be the true one. I had therefore stayed and stayed—now under a belief that we were to go to Germany together, for I had promised to go with him, at the desire of Mr. Bowring, if his health should make it proper to go to the springs; now, with a view to finish a work for him, which I had been long occupied with—it was nothing less than an abridged view of all the cases in Comyn's Digest, relating to the subject-matter of his code. This I completed before I went away, in lieu of editing a hundred pages or so of large duodecimo, letter-press, on Evidence. But although I mentioned all that appeared to me necessary, I found that unless I told the whole truth, it would do little or no good. And why should I do this, at the risk of bringing about dissatisfaction between the master and the servant of thirty years' standing—the one a man who would not be likely to find another to take her place; the other a woman perfectly acquainted with all his habits? Still, his friends—his real friends, expected it of me. They were treated with rudeness—particularly the women; and they knew that nobody would ever be his guest a second time. He ought to

know it; but they were afraid to tell him of it. I was going away; I was thought to have much influence with him, and therefore on me, the ungracious duty appeared to be devolved by common consent. Soon after this, a good opportunity occurred. The woman, not satisfied with letting us ring for breakfast, or for any thing else we wanted, till our arms ached, had taught the other servants to disregard the bell. This I could not and would not bear; so the very first time I had occasion to ring a second time, I rung without stopping till they came. This brought up first a girl, who played a trick with our tea—and then the housekeeper, who be-rated not only the secretaries but myself, in the rudest manner. One would have thought her the mistress of a low country-tavern. I desired her to leave the room. She refused. I repeated my desire in the shape of an order; but instead of obeying me, she put her arms *a-kimbo* and plumped into a chair. Upon which I rose and told her, that if she did not instantly get up and walk out of the room as I bid her—I would pitch her down the cellar-way, chair and all. She was a very stout, vulgar, strong woman; but I took hold of the chair, and she saw it give way. She was alarmed, probably on account of what she had seen occur at our gymnasium in sight of her windows, and jumped up—and I succeeded, by putting my hand first on one shoulder and then on the other, in waltzing her out of the room without any further trouble. But my mind was now made up. I went straightway to Mr. Bentham, and told him that I was obliged to leave him, and why; that after I was gone, she might be managed perhaps; at any rate I must go. He begged me to consider a little more, and wait till he had some alternative to offer. I could not refuse; and the result satisfied me, that if he lacked energy in trifles, he did not, in serious matters; for to him at his age, and with his habits of life, what could be much more serious

than the departure of an old, and I dare say faithful housekeeper? But he was firm; having enquired into the facts from the two secretaries, who were present from the first to the last, and who were able to say much more than I could, about other misbehaviour toward myself, he gave her and the others immediately concerned, the choice of making a satisfactory apology to me, or of leaving his service that very day at four o'clock. The girl submitted, and was retained; the housekeeper said no—and was sent off, though she had told him to his face, that if she was sent away, all the others were determined to follow. But none did follow; and the immediate consequence was such a thorough and satisfactory household-reform, that he used to thank me for the stand I took with a heartiness, which one who did not know the value of an old servant to such a master, would have thought certainly disproportioned to the magnitude of the affair. It may not be uninteresting to add, that a sister succeeded her; and that after lying up in ordinary a couple of years or so, the old housekeeper herself has been re-instated, and that the reform appears to continue.

From this time (August 2d), the philosopher instead of rising at 10, 11 and 12, got up at seven; had not taken coffee in bed for two years, he told me.

Aug. 24th. To-day he writes a letter to Dr. Macculloch, which begins with 'May it please your Omniscience'—adding as he mentioned it to me, that benevolence was a rhyme for it! I laughed at the idea of his knowing, or pretending to know, what a rhyme was, though like my friend Rembrandt Peale, he had procured a copy of Walker's Rhyming Dictionary, not (like Mr. P.) to make poetry with, but to assist him in some other part of his work. He fumbled about the letter, folded it wrong, and muttered ass! I looked up, and he added, I don't mean you; and went on fumbling with a wafer, which as

all his fingers are thumbs, and every thumb a bit of India-rubber that doubles to the pressure, he could make nothing of. I saw that he was about to enclose it under cover to the duke of Athol, and being afraid he might so far outrage the established etiquette of the empire as to seal that also with a wafer, I asked him. He said no. I then observed, modestly enough, that I had sealing-wax. 'Marry, come up,' said he, 'I've got sealing-wax as well as you.' These are things that made his pleasantry so delightful, so innocent, so child-like. 'Come, come,' he continued, 'I'll show sealing-wax with you, and he that has got most, shall take all.' Agreed, if you'll give me till to-morrow at eleven o'clock, when I have to get a new supply. 'No, I shan't give you any thing. No!—not even a little time.'

He *prints* well; and keeps a pen for that particular purpose; and another for directing letters—to *save time*.

This very day (Aug. 24), after going out to receive a small annuity, he trotted all the way from Fleet-street to Queen-Square Place, Westminster, a part of the way very fast—not at all tired, though warm. Perhaps he did so to re-assure himself—on the way back from a life-annuity office, of which he was the only surviving annuitant of a particular age.

Sept. 3, 1826. Mr. Bentham *breakfasts* to-day at 4½ P. M.! Mr. Doane says, that he knew him once to sit down to breakfast after the clock struck five. The Philosopher, as any body may see by his writing, is a great lover of order. There is nothing indeed so remarkable for close and severe arrangement, even among the severe sciences, as a part of his works in French, and a part of his Constitutional Code. Yet, there is not a man on earth so practically regardless of order—so many places for every thing has he, that he never knows where to find any thing. Whole days are spent in searching for what he has had, not

an hour previous in his hand. He is continually missing some paper, which he knows not where to look for. P. S.—I have known him breakfast repeatedly since, between half-past two and half-past three.

One of the cleverest women I know, a sort of pet grand-baby of the philosopher, though they are not related at all; one who has been familiar with him for years, writes me to-day (Oct. 5) as follows. "God bless you for exalting me in my beloved grandpa's good graces. You can't think how dearly I do love him, Legislation *and all that* apart; and yet if there ever was a woman peculiarly prone to love and admire a man for his public affections and public usefulness, I do say I am that she; and that I could not love a paragon of beauty, wit, and private kindness, if he looked on the good or ill-being of mankind with indifference, with scorn, or with anti-social feelings. Think of the divine old man growing a sort of vetch in his garden, to cram his pockets with for the deer in Kensington-Garden. I remember his pointing it out to me, and telling me the '*virtuous deer*' were fond of it, and ate it out of his hand. I could have kissed his feet—it was the feeling of a kind, tender-hearted, loving child."

This anecdote of the "divine old man" was so like much that I knew to be true, much that I myself had observed in his treatment of animals, that I took the first opportunity to ask him if it was true. He did not know—was inclined to believe it a mistake, for he never grew any thing for the virtuous deer; but he used to carry bread and salt in his pocket for them whenever he went that way, and buns for the swans.

Having bought a pig in a family-way, the gardener by his direction has just built her a neat house, and takes the greatest possible care of her (and, by the by, the gardener himself is a treasure—he has been with Mr. B. nearly forty years, if I do not much mistake). Mr. B. visits her regularly every day, and

asks every body he meets to go and see her. She is taken out every day, and walked slowly round the garden for air; he has got attached to her, calls her an affectionate creature, determines that she shall not be killed, and promises with suitable gravity to provide for her in his will. Elrick the gardener is to have so much a year as long as she lives—That, says he, provides against *accidental* death you know, the casualties that pork-flesh is heir to in seasons of scarcity. He always keeps a cat. The last, which on account of his gravity and blackness of coat he used to call the Reverend Doctor Lankhim (or some such name), and which he would never allow any body to call a *cat*, having died of old age, he walked three miles to see another *pussy* he had been told of by secretary D. He used to feed the Rev. Dr. L. with soup at the table, and after his death, tried for a long while to find a monkey to supply his place. A monkey among his papers! thought I—it would be a daily edition of the story about Newton and his dog. Having heard of the jewelled mice, now exhibiting at the mechanical exhibition in the Haymarket, he has set his heart upon going thither—although he does not go beyond the park railing of his garden once a year. The *mousies*, as he calls them, with all the earnestness and tenderness of a child, were stuck all over with brilliant gems, and ran about in a box, with a motion of the tail and a brisk whirl of the body every moment or two, so like life, that it was easier to suppose them alive and stuck over with jewels, than a bit of cunningly-contrived clock-work as they are. In the drawer of his table, he keeps a quantity of stale bread for his own use—and that of the mousies. When he was in Russia he had a pet-bear; but the wolves got to him one cold night in the depth of winter, and stole a large part of his face. Mr. Bentham was inconsolable.

Oct. 6. He told me to-day that Mr. Bowring told him that Mr. Henry told *him*, that Wilmot Horton told *him*, that Mr. Secretary Peel told *him*, that Mr. Bentham was the only man in the country who knew any thing about codification. Very likely! Henry was a man employed to collect evidence at the trial of the Queen: *He satisfied all parties*; and was then sent to Demerara and elsewhere on a like job for government, and is now on a commission for some judicial enquiry. Wilmot Horton is the *real* man, where Lord Bathurst is the nominal one, of the office held by the latter. Mr. Bentham is delighted, and well he may be, with what he calls the signs of the times—alluding to the efforts of Peel, Mr. Humphreys's book on real property, and the review thereof in the Quarterly, a government journal.

He proposes to exhaust the subject of punning, which he looks upon as a matter of downright drudgery. But how? By taking up the dictionary, and *punning* through page after page *to order*. The best of it is, that he who never sees a verbal joke, nor a play upon words, is perfectly serious here.

In his universal grammar, there is a chapter *On style!* This we find a most productive source of laughter. The very idea is enough—*Bentham on Style!*

CHAPTER VI.

Panopticon—Magnificent Project—Poetry—Fun—Bowring—Management—Hume—Goes to a Pantomime—Aged Greek—Mr. Gallatin—Style of Dumont—Dr. Johnson—Boswell—Voltaire—Autumn—Parallel between Bentham and Hobbes—Biography, what?—Sully's portrait.

Nov. 13, 1826. To-day he entered into a detail of his magnificent project with regard to the Panopticon-proprietorship, or contract-management proposed by him, and accepted by the government. I. He intended (out of the *profits* of the concern) to build a street from his house in Queen-Square Place, to the Abbey (Westminster-Abbey)—with arcades and flower-pots, like a garden all the way on both sides—the flowers when they faded to be taken away and their places to be supplied from the garden at Battersea—which *was* to be. II. There was to be an establishment with a Greek name to it—of eight or ten acres, and a passage *under ground from the Panopticon*, for the secret delivery of women, whether rich or poor, the poor to wait on the rich, and the rich to pay for both. III. There was to be a *slide* by a railway for children and others from Battersea-reach to Westminster-Abbey, the height being proved equal to that of the tower—with another Greek name for this. Now what will the reader say, when I add that all this and more *might* have been accomplished with a part of the *probable* profits which he would have derived from his scheme, had the British government held faith with him—to say nothing of the improvement *everywhere* in the structure of prisons, the treatment of prisoners, the condition of society, and the melioration of law, which must have followed. Yet

such is the fact—in this country we are already beginning to draw large resources from our states prisons and penitentiaries; yet they are not well-managed, nor well-built for the purpose, and the charges are ten-fold more than they ought to be, and would be on his plan, which so far as it has been adopted, has always been found to succeed. We in this country are but beginning to do in a small way what he undertook to do in a large way forty years ago; that is, to convert our penitentiaries into productive manufactories. Had he done this in England, with the number and ingenuity of their artisan-culprits, his wealth might soon have realised more than was hoped for by the celebrated Thelusson, whose will has so long agitated the courts of his country; nor would it be wise in our people to jeer at the philosopher for indulging in such a dream, so long as that other dream of the provident, wise, and cautious Franklin, with his compound interest, remains to be accomplished. (36)

Nov. 10th. To-day in a letter he showed me to the President of Guatemala, he acknowledged that the Westminster Review has already cost him over and above the receipts, nearer four than three thousand pounds, that is, from about 15 to 20,000 dollars—a goodly part thereof has gone to his friend Bowring for editorship.

Nov. 15. Nothing was ever so delightful as the child-like pleasantry of this old man; walking to and fro in the ditch after dinner, singing, laughing, and repeating baby-stories and baby-verses. I *must* give another specimen of his real manner and real language. To-day he repeats a number of English-Greek verses—verses in English that is, which pronounced in a certain way, sound like the verses repeated by Sheridan on the floor of the British Par-

(36) Franklin left funds to be forever managed by trustees—the annual increase of which, after a certain period was to be appropriated to the laying out and establishing of roads, canals, and empires.

liament, as the residue of a *Greek* passage already quoted by another ; and for which, and the amazing aptitude of his memory, he was immediately complimented by his antagonist, who admitted the whole made against him,—and by Fox, who valued himself and was valued by his friends for his Greek scholarship. One phrase I recollect. It was *leg o' mutton*, which being pronounced *legom'othon*, made very beautiful Greek to the ear. Perhaps the reader may recollect the Italian of his youth—

In pine tar is,
In oak none is
In mud eel is
In clay none is—

Which barring the fact, that in Italian *almost every word terminates in a vowel*, has quite an Italian air.

This over, he repeated to me a string of verses, which were once regarded as very severe—beginning with—

Great Lord Frog
To Lady Mouse
At James's House
Cock-o-my cary-she !

Or something near that, in such a way as to keep me laughing till my sides ached. You would have thought him the author—with such a lugubrious solemnity were they trolled forth : and then to convince me that he could make poetry, and only forbore out of mercy to Bowring and me, he gave me four lines, made the day before, on the return of Mr. C——, the junior secretary, who had been ill for two or three weeks at the very time when he had a great press of matter to prepare for Guatemala. I had caught Mr. B. in the fact once before, to the extent of a couplet or so. Thus, A pretty *chap* to use my *strap* ! said he of Richard, the senior secretary, in a moment of inspiration ; but here was a much more serious achievement.

Behold our Jack (37)
 In health come back
 The Lord be praised therefore.
 You that are mete
 The song complete
 For I can *go* no more.

There, said he, I have spent a con'-siderable time on that (giving the word considerable, the pure yankee sound). Observe the words now—Behold our Jack,—*in health* come back, how rich in sentiment. This was irresistible, and more so when he begged me to observe how he had kept his eye on Sternhold and Hopkins; and the best of the joke was that I hardly knew when he had finished, whether he was in fun or earnest.

At tea, I entered the room, repeating the verses about great Lord Frog; but repeating them falsely. Lord God, only think o' that! said he, counterfeiting a terrible wrath; you have left out the very pith and marrow of the song—

Great Lord Frog
 To Lady Mouse,
 Cockledum ho! cockledum he!
 Living at St. James's house (38)
 Cock o' my-eary-she!

After this, we had a short conversation about Godwin, the prototype of Mr. Brown, the novelist. Mr. B. had liked his St. Leon, got very much interested in it; but never saw so bad a style as that of Caleb Williams (39). Godwin would write begging letters to every body he knew—and this, while he *would have* his bottle of wine or his pint of wine every day.

(37) The secretary in question was named John Flowerden C.

(38) The palace.

(39) It is laughable—there is no denying it—to hear Jeremy Bentham berating the style of Godwin; but perhaps the reader may be quite as much surprised to hear Godwin attack the style of another—John Philpot Curran. Sir Jonah Barrington relates a story of Godwin being dreadfully pressed by Curran to say what he thought of a speech made by the latter. Since you *will* know, said Godwin, folding his arms and leaning back in his chair, I really never did hear anything so bad as your *prose*—except your *poetry*, my dear Curran.

As I got up to leave the table, he said something about Mary Wolstonecraft, who took it into her head to die one day. Ah so she did.—I remember the fact, said I; several other persons died about that time. Very true, as you say; *very true*—in the voice he kept to tell a story with, about a pompous divine who used to speak of ‘most-admirable-barrel-cod,’ as if he were reading a part of the church-service.

On going away, he charged me to have a better memory another time, upon which I tried once more to repeat the verses about the frog; but the moment I came to the pith and marrow as he called it, the burthen of cockledum-he cockledum-hò, he affected to lose all patience. Good God! it’s enough to drive one mad. Cockledum *ho* cockledum *he*,—will you never say it right! I moved away, with as much gravity as I could wear, and he seeming to be soothed, kept growling after me,—Flesh and blood can’t bear it! And all this, I need not assure the reader, was nothing but play, the play of a patriarch, whose eyes would not allow him to read, and whose mind required a simple and cheap relaxation. To others it may appear silly—to me it was remarkably pleasant, for the old man’s heart was before me, like the heart of a young child.

Nov. 19. To-day in a frolic he gives me a letter to the celebrated Dr. Armstrong, which, omitting a passage, runs thus—‘The bearer is a man of ***** in law and literature in the United States. I have had the advantage of his company as an inmate for about a twelvemonth past; and he has never to my knowledge told lies or picked my pocket. He has something to say to you. Yours, ever,

JEREMY BENTHAM.

Dr. Armstrong.

P. S.—I am using you very ill, by being so well as I am. But you are generous and will forgive me. We are cutting the ground from under you by gymnastics.’

To-day he receives a Chinese dictionary from Paris—to be opened for five minutes, and then laid aside forever.

Dec. 22. To-day, he threw out his character to great advantage. Mr. Bowring, the philanthropist, was here and had a point to gain, requiring all his management. A Scotchman, editor of the Free-Press in Scotland, wanted to establish a free-press at London. I was curious to see how the affair would be managed on the part of the philanthropist; and the following is a record of the proceedings at table. Mr. Bowring began by cautiously *lauding* the editor, as they term it here; saying that Hume and others were greatly interested in the project, and that he (the editor) improved exceedingly on acquaintance; for himself he had no idea when he saw the man first that he had so much good in him; that he had written a defence of Hume in the Morning Chronicle, signed Hampden; that his motto (here was the clencher) was *The greatest happiness of the greatest number*.

Ah, said Bentham, and so says Buckingham (of the Oriental Herald), all that and more—The greatest happiness of the greatest number and that *for the greatest length of time*. This he uttered with a pleasant though rather a satirical laugh.

Here the poet grew more zealous and brave. *Only* £2000 were wanted; nearly £1000 were already subscribed. Place, the tailor, had sent the proposal to Bentham, without one word of remark.

Bowring persevered.

Bentham then said, Ah, but I am afraid that'll be a great injury to the Examiner,—alluding to Hunt's free paper of that title, which Bowring was pledged to stand by.

Bowring, wholly unprepared for this, turned away and affected to be busy wiping his spectacles with a handkerchief, though trying to recover from what was in fact an astounding blow. No injury to the Examiner, said he at last in a hurried way.

How so? asked Bentham quite seriously.

Not the same class of readers, said Mr. Secretary D. on Bowring's right, much to the relief of that gentleman, who took advantage of the hint forthwith, and went on to prove it with a—Certainly, precisely—not the same class of readers.

Ah, oh—but how can you tell that, *when the paper is not published yet.*

Here was another knock-down, with the simple, straight-forward strength of a wise and powerful nature, anxious for the truth, and having no end to answer but that of truth.

After hesitating awhile and considering over the soup, the poet added,—but he knows by the connexion he has already.

Ay—ay—but who can tell how it may be hereafter?

So I said, quoth Bowring, and that was a reason (*significantly*) for not exerting myself with more zeal.

Here I could not help interchanging a glance with the right hand secretary, who understood me I dare say, for he bit his lip. That cock wouldn't fight; and Bowring was now determined to win the day, by going over.

A daily paper I should think would not interfere, continued Mr. Bentham.

My opinion is for a daily paper, answered Bowring.

But we mustn't injure the Examiner.

But the Examiner hardly supports itself now.

There, there, that's the very reason; if this paper is set up, it will finish it entirely.

I could not help feeling delighted at the effect of Mr. Bentham's credulity and simplicity here; believing every word he was told, yet turning it all upon the besieger piece by piece, like the guns and mor-

tars of a battering train, as fast as they were brought up.

Mr. Bentham has no objection whatever to be known to the world *precisely as he is*. I frequently amuse him for a moment or two by imitating some of his peculiarities of speech, walk and gesture; and he has actually invited Matthews to dine with him, because I have thought a true Bentham on the stage by Matthews, would be well received by the public. He regards it as a sitting for a picture—a live-picture of himself, and is tickled at the idea; and I am sure would be one of the first to go and see it, and laugh at it with the multitude.

Dec. 29, 1826. To-day we have Mr. Hume the Scotch financier, who is so remarkable for his penny-wise and pound-foolish economy, that between parliaments he will not take out a letter from the office, unless the postage is paid. Money, remitted by his tenants or steward, has frequently lain a long while for him, and in some cases travelled through the general post-office before he received it. Speaking of the king of Bavaria, Mr. Bentham said he wanted to send him something. Mr. Hume offered to give it to the Dutch ambassador; adding that he had sent a letter lately through the home post-office to *His majesty the king*, to make sure he would get it—and received an answer through Mr. Peele. Did you pay the postage? said Bentham. Pay the postage! with a laugh,—king's own post.

Jan. 9, 1827. Mr. Bentham has concluded to publish the review of Humphreys in the Westminster Review. I am sorry for it; and if Bowring would say to him what he says to me, it would not be done. At last it appears, but in such a way as to stir the Philosopher's bile—it comes out in the proof headed *Supplement*. He speaks to Bowring, who denies all agency in the matter, calls it a mistake of the printer, (And a mistake of the printer it probably was in sending a *proof*

with that word in it), and will order it to be struck out. Mr. Bentham sends a secretary to see the printer, still without any suspicion of the trick, and the printer tells him that the obnoxious word is left out in Mr. Bentham's copy and a few more—though not in the work. Very droll, says Bentham when he hears it; very odd, and laughs. No sort of suspicion yet. Suppose it was forgot, he adds after a while. No, says the secretary, that cannot be, for the press is stopped.

* * * * *

Mr. Bentham dreams that he is in a pit; and at last, he takes it into his head, though asleep, that he is dreaming, and says to himself this will never do, I must wake *myself* up. He begins to bawl, and finally *does* wake himself.

* * * * *

On Friday Mr. Bowring assured him that the Westminster Review would be out certainly on Monday next. This morning (Saturday) the Morning Chronicle, on *his* authority, says Thursday next. Bowring must have left the advertisement as he passed up to dine with the proprietor, to whom he said it would appear on Monday. At any rate, he had finished the notice *before*, else it could not have appeared this morning.

Jan. 30. When Mr. B. was young he had a propensity for *hysterical* laughter. Being in church one day he heard the clergyman address the Deity thus, Thou oh God, who *alterest* all events at thy pleasure, he burst out a laughing and was obliged to withdraw. Some years after, it occurred to him, that probably the preacher had said, O Thou who *orderest* instead of *alterest* all events.

Mr. George Bentham, his nephew, has great difficulty in preventing the benevolent old man from sending the letter of a grand-niece Adèle, a child of six years old, to Mr. Peele: it contains about eight

lines—very clever for a child ; but only think of its being sent to a minister of the British empire.

Mr. B. has a wonderful sensitiveness, not only about the equal distribution of roast-mutton gravy ; but about eating pies in a certain way, with equal and fair proportions of crust and soft. There, there now, he would cry out ; you are bound to cut it so. Yet he never has a pie to himself ; but takes out a little bit of this, and a little bit of that, so that when he dined at his brother's, every pie came up with a little piece cut out.

He is tickled to death at a pantomime, though he contends that the classical purity of pantomime is dreadfully outraged now ; the 'lean and slippered pantaloon' being the cleverest fellow there, except the clown, who is sure to beat Harlequin all hollow. It was'nt so in his youth.

To-day, Feb. 8—we have persuaded him to see Kean in Sir Giles Overreach. Mr. B.'s criticisms were delightful—Kean appeared to him to be very ill-made—no calves—and the language of the play what nobody ever *talked*. When the great actor came to the passage, where, having occasion to say that he is 'moved as the moon is, when wolves do whine and howl at her,' he actually how-ow-owls, and whi-i-ines out the words, I looked at Bentham, who appeared to enjoy it as capital fun. But the hour of real enjoyment had not arrived. There was a pantomime to be played—the Man in the Moon ; with this he *was* pleased—delighted—save as I have mentioned before, where it violated the truth of history—Pantaloone being a worthy and staid old man, the clown a clown. Here the old man and the clowns are most active—Tissue of misrepresentations—can't abide it, said he, as we prepared to come away ; Pantaloone—a worthy old gentleman,—yet he is as active as the best of them ; no plot neither ; would give five times as much (quite seriously) to see it

done with truth. On this occasion his two nieces were with him—the daughters of Gen. Sir Samuel Bentham; they had not been together, till within a week or two, for many years; nor had he and his brother had any intercourse for many a year. The meeting was delightful to every body that knew the circumstances—their hearts were all running over together.

Nov. 13. He saw Mrs. Siddons's first appearance: it was in Portia, 29th Dec. 1775—she made her second appearance at London, on the 10th of Oct. 1782, in Isabella.

Feb. 13th. To-day a filthy middle-aged Greek, very learned and clothed like a beggar, who had been here twice before, with a Greek letter to Mr. Bentham, which could not be received, as the writer spoke nothing but a barbarous lingua-franca, German, Italian and modern Greek all jumbled together, now comes to me with a letter in Greek, translated into English, saying that the servant or secretary of Mr. B. had ill treated him as a learned man, and misrepresented him to the *respectable* Mr. Bentham as a beggar and impostor: that he had been travelling two years on the continent to see the face of the *respectable* Mr. Bentham; and if Mr. Bentham would not see him, he prayed him to write a line to say that he had received the letter. I sent the letters up to Mr. B. and entertained the Greek with French, Spanish, Pantomime, and Yankee; during which I satisfied him that Mr. Bentham was 80 instead of 40, that Bowring was not his brother, (Bowrin' este frati—Bentam?) and that there was no *Madame Bentham* to my knowledge, along with some other matters. At last the object of his two years travail appeared—his white hair combed smooth, his whole countenance glowing with good-nature and humanity. The Greek rose at his approach, and doubled himself up, and the colour flashed over his swarthy face, and he appeared vehemently affected. The philosopher put forth his hand cor-

dially and hailed him in old Greek. The modern replied. Bentham was all at sea,—he had got the whole length of his tether—speaking and reading were two very different matters : he began to withdraw ; giving the stranger as he moved away a little scrap of paper, and showing him that he had received the Greek letter, which he then held open before him. I was delighted ; for the paper that Mr. Bentham gave him with his own hand was to say that he could not see him. It ran thus. My time is taken up with the public. I have none to spare upon individuals—none to gratify the curiosity of individuals however worthy they may be. Seeing would be no use without conversing, and conversing would take time. A part are the very words of the writer, a part are perhaps varied a little in expression. *Bentham nicht capisco Græca antica*, was one of the first phrases that dropped from the mouth of our learned Theban.

15th Feb. 1827. Birth-day of the philosopher : *low-spirited for the first time* since I have known him ; says and believes he shall not live to see another ; observed to-day for the first time that his knees give away under him in walking—he started—and is really sad. N. B. got over it entirely in two days. At the table, when we drank his health, Bowring threw off an impromptu-toast—

May the pilgrim-age
Of the white-haired sage
Of Queen-Square Place
Be a long—long race.

I had been playing at Angelo's fencing-rooms, and remarked as I sat down to dinner, heartily fatigued with the display—There, I have beaten all the *good* players now ! And all the bad ones have beaten you, hey ? said the secretary on my right. That's the reason they're bad, quoth the white-haired sage. I saw now that his spirits were up again, his jokes on the alert. Having asked him what was the age of

somebody he spoke of, he answered with affected petulance, age—age—age of every body else. Here noodle, said he to me a moment afterwards, with another joke in his eye. What d'y'e call him a noodle for, said the secretary. Because he's a Yankee-doodle, said the philosopher. A capital reason faith, said I—it reminds me of Matthews' story about the *waterman* who insisted on knowing why he was called so. Vi, said coachee, don't you open the coach-door, you fool? Vi, so I does—answered the waterman, perfectly satisfied. So with you. You call me A. because I am B. No no, said he—not so fast young man, not *as you know on*—it's only a more civil way of saying so.

Every day he has one secretary employed in making long extracts from the Morning-Chronicle, though he takes the paper itself, and has had *slips* along with the paper—there's economy for you! Wants extra copies. Why? How can I tell what I *may* want, he says.

March 15, 1827. To-day Mr. Gallatin, who is a native as every body knows of Geneva, spoke to me of his townsman and old associate, Dumont. Burr, (whom he called an ambitious man, with a shrug and a smile) gave him, in 1793, the first work of Bentham's to read which he had ever met with: it was the English quarto on *Morals and Legislation*, saying, Here, this will please *you*; it is too dry for me. Since which Mr. G. had read every thing of B.'s except some of his last works, which he could not get. I spoke of M. Dumont and of his eloquent vagueness. He agreed with me. Dumont, he said, was remarkable for style; he wrote many or most of Mirabeau's celebrated speeches—he takes the thoughts of another and turns them into language. When they were both young men, (G. and D.) they belonged to the same literary society, and it was observed that Dumont's essays were always remarkable both for vagueness and eloquence. I spoke of the od-

dity of Dumont's remarks on vagueness, declamation, poetry, &c. *after Bentham*—that is, copying the ideas from Bentham, whose notions were evidently as unlike his, about style, poetry, &c. as any body's could be. Mr. Gallatin laughed and said Mr. Bentham had always charged M. Dumont with having castrated him.

At the Johnson's Club, a club that met and paid 10s. 6d. each for a dinner to hear Dr. Johnson talk, Mr. Bentham got heartily tired of his arrogance. Did you ever happen to see his biographer? said I. No: but he was pointed out to me one day in the street—I did not see him. Here followed a story about Boswell waiting behind after dinner, instead of going to the drawing-room for tea, and taking advantage of the absence of others, to empty the bottles that were left, Burgundy, Champaign, &c. Beattie, the moralist, was a drunkard also! In Boswell some allusions are made to it, in a delicate way.

About a month ago, I suggested to Mr. B. the propriety and advantage of *dictating* his life to an amanuensis, every evening after tea. It would be so much time saved, and after his death money would come of it to his heirs, and profit to the world. He received a letter urging it, about the same time. He said no—not an hour to give up. His nephew and I pressed him still further—as it could not interfere with his time, and his style in familiar narrative was free, and rough, and peculiar, like old port. To-day, Mr. Bowring is at work,—it will be a legacy to him therefore; he gives up two evenings a week for it.

M. Dumont, who was accustomed to the fare of Holland-House, used to say that Mr. B. gave *radical* dinners. The philosopher did not much like it—he thought it 'not very *judicious*.'

March 26th. A letter was written about a week ago, says ———, to be made use of with Mr. S. the rich and public-spirited banker, averring that Bentham was already out of pocket £3700 for the Westminster

Review, and that it could not go on another year without an advance of £1000; £500 of which Bowring the patriot, the philanthropist and the friend of Bentham was to have in his threefold capacity. (40)

To-day we had a capital scene between secretary D. and Mr. P. the solicitor of Warwickshire. P. wanted to pump D.; but D. wouldn't be pumped. Mr. Bentham had observed one day to P., that he had once done something for Voltaire while he was alive, which if he and Voltaire had met, would have made them well acquainted; after which he alluded to a magazine published sixty years ago. This magazine our indefatigable friend P. forthwith hunted up; and lo! the White-Bull of Voltaire, translated into English, appeared. Mr. G. B., the nephew, spoke to me of the same thing one day; but I had then no idea, nor had he from what I said, that the pumping, the marching and the countermarching, between D. and P. were on account of the same thing. Yesterday the codifier got upon the very subject of the *Taureau Blanc*; laughed heartily himself, and made us laugh heartily with his remarks about the story and the *design of the translator*. There were the prophets, my namesake among the rest, said he; they were all turned into magpies, and the best of the joke was (laughing all the while), they kept on just as if nothing had happened. The wittiest work! (Throwing up his eyes and shaking his head slowly.) There was the witch, of Endor, the whale, and the serpent, —and the prophets.

April 4. Mr. B. relates a story of Blackstone, to be repeated in Yankee-land. 'As early as sixteen,' said he, 'I began to *query* Blackstone, my Gamaliel, while I was sitting at his feet. He was a stiff,

(40) These things ought never to be passed over. Mr. Bentham threw away £700 on the establishment of a Gymnasium, which so long as it prospered, one would have thought was the joint project of the philosopher and the poet; when it failed however, utterly failed—it proved to be the loss of the former alone.

pompous, proud quiz—Mansfield couldn't bear him. I told you, I believe, that he, M., had the whole of the Fragment read to him, and liked it mightily. When Blackstone was Vinerian professor at Queen's College, Oxford, he sent to Dr. Brown, provost of the college, to know what distinction should be awarded to him, or how he should be ranked. Tell him, said Brown who was a shrewd fellow, tell him he may walk before my beadle,—the beadle that preceded him with a mace, when he walked out. Mr. Eden (the writer on penal law), afterwards Lord Ackland, and Blackstone did something together once which Bentham approved. (41) Out of this grew something of Mr. Bentham's, about which Blackstone wrote him, complimenting him rather highly.

And now I have done with this part of the familiar biography of the extraordinary man, whose language, manner, and peculiarities of speech, look and thought, I have tried to preserve a record of. Other things I might mention, but they would be out of place *now* and *here*. The reader of old-English biography however, cannot fail to perceive a startling resemblance at times between the author of the Leviathan, Hobbes, and the author of *Morals and Legislation*. Many other points of resemblance might be mentioned; but it may be sufficient to indicate a few, most of which are already referred to,—leaving the reader to make a book for himself out of the materials here furnished to his hand.

Mr. Bentham is so afraid of death, that he will not allow the subject to be discussed before him—he is afraid of being alone after dark; he is either read to sleep every night, or left to fall asleep with a lamp burning; and he is a believer in what *he* calls ghosts; that is, in a something which makes him uneasy in solitude after dark.

(41) They were the originators of the Hard-Labour Bill, which led to his View of the Hard-Labour Bill.

So with the author of the Leviathan. He was subject to occasional terrors; he 'could not bear to be left alone in an empty house; he could not even in his old age bear any discourse of death, and seemed to cast off all thoughts of it. He could not bear to sleep in the dark; and if his candle happened to go out in the night, he would awake in terror and amazement.' (42) And 'on the Earl of Devonshire's removal from Chatsworth, the philosopher, then in a dying state, insisted on being carried away, though on a feather-bed. Various motives have been suggested to account for this extraordinary terror. Some declared he was afraid of spirits.' 'The terrible enemy of nature, death, is always before him.' (43)

As a talker, though not often as a writer, Mr. Bentham is very dogmatic; and very much of an egotist; but still, it is an agreeable sort of dogmatism, and the pleasantest, the best-founded, and the most excusable egotism I ever met with.

So with Hobbes. 'His greatest imperfection was a monstrous egotism—the fate of those who concentrate all their observations into their own individual feelings. There are minds which think *too much, by conversing too little with books and men. Hobbes exulted he had read little, and was a solitary man.*' So does Mr. Bentham—'Hence he always saw things in his own way.'

'He wrote against dogmas with a spirit perfectly dogmatic. He liked conversation—peevishly referring to his own works whenever contradicted; and his friends stipulated with strangers that they should not dispute with the old man.' Mr. Bowring often does this, after having persuaded Mr. Bentham to see them; or if he does not *stipulate* to this effect, he himself is careful never to dispute with Mr. Bentham, and usually hints as much to others. 'Selden has often quitted

(42) Dick on the Future State.

(43) D'Israeli.

the room of Hobbes—or Hobbes been driven from it in the fierceness of their battle.’ The very same thing may be said of Mr. Mill, the author of *British-India*, and of some others, during their intercourse with Mr. Bentham. Yet no man is readier to forget and forgive—but he cannot *talk*, he says; and they who can, get the advantage of him.

Another resemblance may be found in their great age, and greater industry. Hobbès ‘*delighted to show he was living by annual publications*. His health and his studies were the sole object of his thoughts; and notwithstanding that panic which so often disturbed him, he wrote and published *beyond his ninetieth year*.’ So with Mr. Bentham—he is now upwards of eighty; continually occupied with new works, in better health, and in a fuller enjoyment of life now than he was ten years ago.

Now, before the reader throws away the character of Jeremy Bentham, as it appears of record in the preceding pages, I pray him to go over the whole for a few minutes in his own mind, and say whether after all, such anecdotes are not of a thousand times more worth to the understanding of a great man’s nature, than the most able and eloquent panegyric in the world.

Plutarch is no favourite of mine; yet his *touches* of characters appear inimitable even to me. Agesilaus astride of a stick; Alexander swallowing the medicine to show his faith in human virtue; Philopoemen cutting wood in the kitchen of his host; Alcibiades letting off the bird in a public assembly or cropping the tail of his beautiful dog; Epaminondas working as a scavenger; Aristides writing his name upon the shell—these are the true men, the *live* men of history. ‘*La physionomie ne se montre pas dans les grands traits, ni le caractère dans les grandes actions; c’est dans les bagatelles que le naturel se découvre,*’ says Rousseau, prefatory to the following anecdote and the following observation about *familiar biography*.

‘Turenne was incontestably one of the greatest men of the last age. I will give one anecdote of him which I have on good authority, ‘et que Plutarque n’eût eu garde d’omettre, mais que Ramsai (the Biographer of Turenne) n’eût eu garde d’écrire quand il l’aurait su.’

‘Un jour d’été qu’il faisait fort chaud, le vicomte de Turenne, en petite veste blanche et en bonnet, étoit à la fenêtre dans son antichambre: un de ses gens survient, et trompé par l’habillement, le prend pour un aide de cuisin avec lequel ce domestique étoit familier. Il s’approche doucement par-derrière, et d’une main qui n’étoit pas légère lui applique un grand coup sur les fesses. L’homme frappé se retourne à l’instant. Le valet voit en frémissant le visage de son maître. Il se jette à genoux tout éperdu. *Monseigneur j’ai cru que c’étoit George. Et quand c’eût été George s’écrie Turenne en se frottant le derrière, il ne fallait pas frapper si fort.* Voilà donc ce que n’osez dire ces misérables!’ continues the eloquent Rousseau, ‘the apostle of affliction.’—‘Soyez donc à jamais sans naturel, sans entrailles; trempez, durcissez vos cœurs de fer *dans votre vile décence*, rendez-vous méprisables à force de dignité.’

It is by these things and by these things only that we are brought acquainted with men, *as men*; but biographies are intended to make us acquainted with the *men* (44)—their works are enough to show

(44) Without referring to the pompous biographies that encumber the table of every English scholar, I may allude to the biography of Johnson by Boswell. Who would not forgive the gossip and childishness to be found there, in consideration of the *truth* upon which, as upon a texture of fine gold, the rest of the work is wrought? To state such a question, you would suppose were to answer it. But such is not the opinion of the lettered or the exceedingly wise of our earth. No—they stand upon their dignity. And they would have other people stand upon theirs. They are believers in the maxim, that *Familiarity breeds contempt*—and are afraid, if they encourage familiar biography, of being treated in the same way after their death. Says M. Palissot, the editor of *Voltaire*, in his *Mémoires sur la littérature*, while speaking of Helvetius and his editor, L’auteur de cette préface, qui paraît très-attaché non-seulement à la personne d’Helvétius, mais à ses opinions, aurait pu se dispenser, d’y placer quelques faits qu’on est tenté de révoquer en doute par égard pour la mémoire de cet homme célèbre. Est-il bien avéré, par exemple *que ce philosophe ait dansé publiquement à l’opéra, sous le nom et le masque de Javillier, et qu’il ait été*

their philosophy and their science. A book might be made in the shape of a review or a laboured analysis of Jeremy Bentham's works, but who would read it? I prefer letting him speak for himself; and therefore, having introduced him to the reader, and set them down to the same table together, I shall leave Mr. Bentham by the help of Mr. Dumont, to show the vastness and the strength and the beauty of his understanding as a legislator and a philosopher, in his own way.

P. S.—The outline portrait of Mr. Bentham, herewith offered to the public, is engraved from a very faithful and spirited sketch from life, by Mr. Robert M. Sully, a Virginian of great promise, nephew to Mr. T. Sully, now of Philadelphia. Mr. Bentham sat to him in the year 1827: but Mr. S. did not succeed so entirely with the portrait as I could have wished. To gratify me however, he took a sketch one day as they were together. From that sketch left by me in the hands of the family, a copy was traced by the secretary of Mr. B. from which copy the engraving is made. It is altogether very striking and characteristic; and will be observed to bear a considerable resemblance to Dr. Franklin,—a bust of whom, by the way, is now in the possession of Mr. Mill, the father, which was sent to him by a friend at Paris, on account of its surprising resemblance to Mr. Bentham.

applaudi, comme ce danseur avait coutume de l'être. Helvétius jeune aurait-il été capable de la même folie? c'est ce que nous nous garderons bien d'affirmer, et ce qui, *en supposant le fait vrai, était peu digne d'entrer dans l'histoire d'un philosophe.* Such is the opinion of a dignified writer,—of one who thinks a philosopher will not bear to have the *truth* told of him. Such a writer would scruple to record the story of the chicken that somebody ate for Sir Isaac Newton, the hole for the large cat and the hole for the small one he had cut in the door; and peradventure the fall of the apple or the blowing of the soap-bubbles. How much of human nature would be discovered by the successful result of such a frolic as we have recorded here of Helvétius. To be mistaken by the French people—on the boards of a French opera—for their chief dancer, on account of the *mask* and the *part*—what was it but a magnificent experiment on their most familiar propensities?

CHAPTER ON UTILITY.

'THE GREATEST-HAPPINESS PRINCIPLE.'

THE most extraordinary notions are abroad respecting UTILITY, and the followers of Utility—the UTILITARIANS ; the former being seldom alluded to without a sneer, and the latter never. The very name is enough. To call a man a Utilitarian—what is it but to call him by a very odd name ? And what are odd names good for but to be laughed at ?

A short history of the sect, and of their faith, accompanied by a few remarks on what both are believed to be, and represented to be, by those who are not acquainted with either, may not be out of place, nor uninteresting here.

JEREMY BENTHAM is the head of a party who have adopted the name of *Utilitarians*. I also am of that faith—although not of the *party* ; for some of their doctrines I do not subscribe to, and a few of the practices, and teachings, particularly of certain of the more youthful among them, are absolutely hateful in my eyes, and worthy of punishment by law. But, nevertheless, I am a *Utilitarian*, to the full extent of what I understand by the word *Utility*, or by the motto above—‘*The greatest happiness principle.*’ To that law I suffer no exception : I recognize no duties, no rights in opposition to it. I preach Bentham heartily and without qualification so far. I do not stop half way, with the late president Adams, who in speaking of the institutions of Lycurgus, the Spartan lawgiver, says, But as a system of

Legislation which *should never have any other end than the greatest happiness of the greatest number*—SAVING TO ALL THEIR RIGHTS, it was not only the least respectable, but the most detestable of all Greece.' I do not say, 'The greatest happiness of the greatest number—*saving to all their rights*—No! for I acknowledge no rights that can interfere with the *greatest* happiness of the *greatest number*—none whatever, not even that 'of life, liberty, and the pursuit of happiness'—to borrow the awkward, and either very unmeaning or very untrue phraseology of most of our constitutions. If it be better for the greatest happiness of the greatest number that a man should die, whoever he may be, and whatever he may be, *cut him off without mercy*. And so with his liberty, and so with his property. But have a care—be *certain* that it *will* promote the greatest happiness of the greatest number, before you do so; *ay*, before you cut off the greatest criminal that walks the earth; before you spoil the highway-robber of his liberty, or deprive him of *his* property.

Here is a rule of conduct which never can deceive us—though, to be sure, it may give to a bad man, here and there, an outward justification for misbehaviour; just as every other great truth may. And so far it may be called, what the chief adversary of Bentham called it, nearly fifty years ago, a *dangerous doctrine*. But fire-arms are dangerous—and that very law which requires of man to do as he would be done by, is dangerous in precisely the same way. If we are weak, or blind, or perverse, we may judge wrong. If we are wicked or too ingenious for truth, we may pretend to judge, as we do not.

This magnificent rule of conduct, which may be regarded as the greatest discovery in morals that ever was made, did not originate with Bentham. Ages ago, people talked about the *fitness of things*; and Helvetius, that extraordinary Frenchman, had got his

foot upon the shadow of the pyramid, and was preparing to measure its altitude for the benefit of all who were at sea, in the vast ocean of morality, when Mr. Archdeacon Paley appeared, and brought forth a new instrument, under the name of UTILITY, and gave us what we required—a name for that, which will hereafter be a guide for the nations, a pillar of light, for the journeying ages that are to follow in the footsteps of this.

And after Paley, came Bentham—who looking abroad with the eye of one that is able to read the universe of thought like a map, and fixing upon two or three first principles, in Morals and Legislation, as clear and as satisfactory, as the law of gravitation in physics, laid the foundation of a new science, which, for the want of a better, we may call by the name of UTILITY.

The Greeks had their notions of Utility, and so had the Romans; (45) but they were the vague, shadowy, imperfect type of the substantial doctrine which has lately begun to be thought of, studied and understood, by certain of the ablest men of Europe.

Among the moderns, Helvetius and Paley, the latter of whom borrowed his whole ground-work from the former, though the superstructure is entirely his own, are entitled to the chief praise for having stripped the doctrine of all mystery and qualification, and made it what it deserves to be considered, *a perfect rule of conduct*; a rule even more perfect than that, which appears at first view to be incapable of improvement—i. e.—the rule which commands you to

(45) Cicero, in his Offices, undertakes to say that *self-interest* (which rightly understood is the ground-work of Utility) would, if established as the motive of human actions, be the destruction of morality. *Sunt nonnullæ disciplinæ quæ officium omne pervertunt. Nam qui summum bonum sic instituit, ut nihil habeat cum virtute conjunctum, idque suis commodis, non honestate metitur, hic, si sibi ipse consentiat, et non interdum naturæ bonitate vincatur, neque amicitiam colere possit, nec justitiam, nec liberalitatem: fortis verò, dolorem summum malum judicans; aut temperans, voluptatem summum vinum statuens, esse certè nullo modo potest.*

others as you would that others should do unto you : for that, in some cases, would not be a sure guide for the understanding. As for example—A judge is about to give sentence of death. What if the culprit were to say to him—Art thou of a truth a christian ? If so—do as thou would'st be done by—let me go free. How could the judge escape—what plea could he offer ? It might be said, to be sure, that the criminal after setting aside the law, for his own gratification, should not be allowed to set it up again, for a defence against the consequences of his act. But how would that excuse the judge ? for he, whether the criminal pleaded or not, would be bound *ex officio*, to take notice of the law ; and therefore to do as *he* would be done by. It might be said too—for it has been said—that the judge who proceeds to give sentence of death on a fellow-creature, notwithstanding the law, *Thou shalt do as thou wouldest be done by*, does so, not in violation but in confirmation of that law, inasmuch as if *he* had done what the culprit has done—he would be willing to receive sentence of death. But this I take to be a wretched fallacy, a mere subterfuge ; and the law itself, so far, as imperfect. (46)

(46) A stranger has given a better view of the matter in the following observations :

‘To the remarks on the golden rule of our Saviour, I seriously object : they seem to me to lower the standard of Christian morality and detract something from the authority of the precepts of Jesus Christ. *Do unto others as you would that others should do unto you*, is in my opinion a perfect rule of moral conduct. Notwithstanding all that has been said, I cannot imagine a case to which it is not applicable. A judge is called to sentence a criminal ; he is a Christian ; he does his duty ; he does as a Christian placed in the situation of the criminal would wish a judge to do—*his duty*. The golden rule is not, do unto others as they wish you to do unto them—which seems to be all that your correspondent understands it to be—but do as you, a Christian, one who has too much reverence for justice to wish it perverted on his own account, one who can say to his Father in heaven, thy will be done—One who believes that all things, even the severest punishment which human laws inflict, will work together for good to them that love God—wish that others should do unto you.’

The argument here is exceedingly well stated, and *perhaps*, if Christians were what they should be, and all men Christians, willing to do their duty and suffer death *because* the law has declared them to be worthy of death, it might

Now, suppose that, instead of being told to do as we would be done by in all cases ; we were told to do that, which would produce the greatest happiness to the greatest number. Here then would be a *law* about which there could be no dispute. It would apply in all cases—in every age. This in fact is the law of Utility—the great pervading and abiding principle of that new sect, not in religion, but in morals, who are known abroad, and are beginning to be known here, as *Utilitarians*.

Suppose a familiar case. I see a beggar in the street, evidently starving. To do as I would be done by, I should feed him ; because were I in his condition, I should wish to be fed. But suppose I *knew*—was perfectly satisfied, that by feeding him I should

be a perfect rule. It amounts to this—and only this however, according to the interpretation of the writer whose language I have quoted—*Do your duty* ; we say the same thing ; we say—*Do your duty* ! But another question arises, what is your duty where you are condemned to death by the law ? We say it is to die, if by dying you will promote the greater happiness of the greater number ; to escape, if by escaping you promote the greater happiness of the greater number. But says the stranger—‘ the golden rule is not to do unto others as *they* wish you to do unto them—but do as you, a Christian, one who has too much reverence for justice to wish it perverted on his own account—wish that others should do unto you.’

This is unanswerable. There is no denying—no resisting such truth, so stated. And all I have to say now is, that, if Christians were Christians, the *meaning* of the rule, as so interpreted, would be perfect ; though the very discussion we are now involved in, proves that the meaning is not perfectly understood by every body, and that, therefore, as a rule, it is not a *perfect* rule.

And we may add that it would be about as difficult for a man on trial for his life to judge by the rule of utility, and judge truly and impartially, as by the golden rule of the Saviour. If because the judge, were he in the place of the criminal, would like to escape death, he ought therefore to let the criminal go free—why not object to the principle of utility in the same way ?—As the judge, if he were in the place of the criminal at the bar would be likely to imagine that it would be for the happiness of the greatest number for him to be set free, he ought therefore to set the criminal free. The answer is—that in every such case the application of the principle of utility may be made with much less risk than any other, because the judge has to ask himself, not what he should think or do, were he in the place of the criminal, but what he ought to do as a judge. He is not to ask himself what he would *wish* or do were he at the bar, instead of being on the bench—he is not to seek out the meaning of the words, do unto others as *you would* that they should do unto you—he has merely to satisfy himself that a particular course of conduct would be more conformable to the greatest happiness of the greatest number. And so far therefore—in its simplicity and directness, it may be that our rule has the advantage over that which, though attributed to the Saviour as if it had originated with him, is in fact the offspring of heathen philosophy.

do more injury than good to society? What then? To do as I would be done by, would be to act and leave the consequences to take care of themselves. Not so with Utility.

The chapter alluded to in Paley is very short, and like most of that able man's writings, very much to the purpose. It runs thus:

'So then actions are to be estimated by their tendency. (47) Whatever is expedient, is right. It is the utility of any moral rule alone, which constitutes the obligation of it.

'But to all this there seems a plain objection, *viz.* that many actions are useful, which no man in his senses will allow to be right. There are occasions in which the hand of the assassin would be very useful. The present possessor of some great estate employs his influence and fortune, to annoy, corrupt, or oppress, all about him. His estate would devolve by his death, to a successor of an opposite character. It is useful, therefore, to despatch such a one as soon as possible out of the way; as the neighbourhood will exchange thereby a pernicious tyrant for a wise and generous benefactor. It might be useful to rob a miser, and give the money to the poor; as the money, no doubt would produce more happiness, by being laid out in food and clothing for half a dozen distressed families, than by continuing locked up in a miser's chest. It may be useful to get possession of a place, a piece of preferment, or a seat in parliament, by bribery or false swearing, as by means of them we may serve the public more effectually than in our private station. What then shall we say?

(47) Actions in the abstract are right or wrong, according to their tendency: the agent is virtuous or vicious, according to his design. Thus, if the question be, Whether relieving common beggars be right or wrong? we inquire into the tendency of such a conduct to the public advantage or inconvenience. If the question be, Whether a man, remarkable for this sort of bounty, is to be esteemed virtuous for that reason? we inquire into his design, whether his liberality sprang from charity or from ostentation? It is evident that our concern is with actions in the abstract.

Must we admit these actions to be right, which would be to justify assassination, plunder and perjury; or must we give up our principle, that the criterion of right is utility?

‘It is not necessary to do either.

‘The true answer is this; that these actions, after all, are not useful, and for that reason, and that alone, are not right.

‘To see the point perfectly, it must be observed, that the bad consequences of actions are two-fold, *particular* and *general*.

‘The particular bad consequence of an action, is the mischief which that single action directly and immediately occasions.

‘The general bad consequence is, the violation of some necessary or useful *general* rule.

‘Thus, the particular bad consequence of the assassination above described, is the fright and pain which the deceased underwent; the loss he suffered of life, which is as valuable to a bad man, as to a good one, or more so; the prejudice and affliction of which his death was the occasion, to his family, friends, and dependants.

‘The general bad consequences is the violation of this necessary general rule, that no man be put to death for his crimes but by public authority.

‘Although, therefore, such an action have no particular bad consequences, or may have greater particular good consequences, yet it is not useful, by reason of the general consequence, which is of more importance, and which is evil. And the same of the other two instances, and of a million more which might be mentioned.

‘But as this solution supposes, that the moral government of the world must proceed by general rules, it remains that we should show the necessity of this.’

Thus much for the real doctrine of Utility. Before we go to the misrepresentations and mistakes above referred to, let us lay down the rule in another

shape, without fear or favour, and try it with a becoming courage—carry us where it may.

Do any thing, says the advocate of utility, if by doing it you produce more good than evil. Murder, lie and steal. Stop at no crime. Butcher your parents or your children. Make war upon your country—do what you please—make war upon heaven, if you will. But before you move one step in the work, before you breathe your purpose aloud—be *sure* that you are going to produce more good than evil. If you are not certain—stop. If you are not *certain* that the act must produce more good than mischief, whatever may happen—though the sky should fall—do not lift a finger. But are you never to do some evil, that good *may* come of it? Yes, if that be your motive; and if it be such evil as you, yourself, would not be ashamed to avow. Suppose a madman were pursuing a little child. Suppose the child were to pass you, and escape into a hiding-place, without being seen by the pursuer; and suppose he were to ask you if the child had gone that way, and you were to say he had not—you would be telling a falsehood, not with a *certainty* of saving the child's life, but with a prospect of doing so. Would you be justified? That would depend upon your own views of utility? If your untruth, on account of your character, the station you occupied, or the incapacity of those who were about you, were likely to introduce a habit of untruth in trivial cases, it might be questionable whether you had done most evil or good. But suppose you *knew* that by telling the untruth, you would save a fellow-creature's life; and suppose the pursuer, instead of being a madman, were a man capable of committing murder; and suppose you knew therefore, that by telling the untruth, you would not only save the life of the child, but the life of the murderer—and perhaps his soul—what then? Would you be justifiable? You might be—or you might not. If

you were the high-priest of a nation that could not perceive the why and the wherefore of such distinctions; if they were likely to stop at no untruth for any purpose, or even to disregard truth in their daily intercourse with each other, in consequence of your example, it *might* be better for both to perish, the child and the murderer, than for you to be guilty of untruth.

It comes to this, then, you will say—Every man is to judge for himself. Certainly. But is not that a dangerous doctrine? Assuredly it is, and so is every other doctrine of power—if it be wilfully perverted. He who would steal or lie, under pretence of consulting the great principle of Utility, is the very man who would steal or lie, under pretence of doing as he would be done by. If he would excuse himself by saying that he did the mischief under an idea that more good than evil would come of it, he must either speak the truth, or not speak the truth. If he does not speak the truth, he would not scruple to say; if he were pressed, that by taking another's property, he *had done as he would be done by*. And if he did speak the truth, he is only to be pitied like every other conscientious man who errs, not for lack of honesty, but for lack either of judgment or education. The result is, that you are to teach people to see the truth, to look ahead, to judge fairly. In other words, you are to educate them.

Now, without stopping to enquire into the doctrine of Utility, as it appeared by glimpses in the writings or teachings of the ancients, (48) let us go straightway to such of the moderns as have contributed to give it a shape, and set forth a few samples of the kind of error that prevails generally, I might say universally, among those who pretend to write upon the subject. The reader will be surprised to find such a

(48) See note on page 123, on the subject of self-interest.

man as the late president John Adams erring egregiously in the very outset of a paragraph, meant to be a serious and rather formal annunciation of his faith, and he will perhaps be more astonished when he comes to see the celebrated Mr. Colton, the author of *Lacon*, that severe thinker, and otherwise extraordinary man, absolutely blundering about the same subject, with a pertinacity and a composure only to be equalled by some parts of 'De Lolme on the constitution of England,' or by that man, the author of a reply to Beccaria, who by way of showing, to the utter confusion of all those who alluded to perpetual motion, even as a figure of speech, that the very *idea* was impossible, profoundly observed, that as all materials were perishable, there could be no such thing as perpetual motion. Just so with a multitude more—they have erred as strangely in what they have said of this new doctrine and of its followers.

HOBBS, in the *Leviathan*, declares that the *safety of the people* should be the supreme law; that public good in every case whatever, should prevail over private. (49) Hobbes was followed by Mandeville, Swift and Chesterfield, in England; and by Helvetius and Rochefoucault and Rousseau in France. (50)

The Utilitarians hold that all mankind are governed by a regard for self—which regard for self, they do not like to call, as their opponents do, *selfishness*, because that word conveys a reproach, but a *self-regarding-interest*.

SWIFT in his detached thoughts observes, that there are some whose *self-love* inclines them to please others, and some whose *self-love* inclines them to please themselves; the first he designates as the virtuous, and the second as the vicious.

(49) Blackstone says the same thing, but he does not *mean* what he says, where he speaks of pursuing criminals into their castles or houses; or rather—he means what he says, not for a general law, but for a law in that particular case.

(50) In his '*Maxims*' and '*Falsity of Human Virtue*.'

ROUSSEAU saw the difficulty of the egotistical creed, and to avoid it, divided self-love into two orders, a higher and a lower, a sensual and a spiritual; and laboured to convince us that his higher order of self-interest was compatible with virtue, the lower not.

Here we have the beautiful doctrine trying to work itself up to the light. Nothing however was made of it, till Mr. Bentham gave it power and plausibility, and applied it, by the help of a perfect law, to all the business of life.

OLIVER GOLDSMITH had *his* notions of the rule; and as they happen to be like those of many a sensible head, they are worth referring to here.

In a part of the *Vicar of Wakefield*—I forget where now, as I have not read the book for many years, though I have the most exalted opinion of it as a story, the kind-hearted author goes into an argument to show that evil may not be done for the sake of good to follow. And the reason he gives is this—that between the evil done by you and the good that follows, even if it should follow, there must be an interval: that you may be cut off, and called up to your final account, during that interval: and that therefore you must suffer for the evil you did, without having advantage from the good you hoped. Now all this, though very like the reasoning of Oliver Goldsmith in general, I take to be such as would not satisfy any body now—save perhaps here and there a novel-reader. Why did he not perceive, that if a man be judged at all hereafter, he must be judged by his *motives*, and by them alone; or more carefully speaking, by the *purposes of his heart*? And if so, what would he have to fear, who should be able to say to the judge of the quick and the dead—Lo! I appeal to thee—*Our Father!*—Thou knowest that I meant good and not evil, when I did this thing.

KANT, the great German Philosopher, would not

allow a man to tell a falsehood even to save a friend from death, by the hand of a ruffian or a maniac. He would not allow you 'to do evil that good might come, or that good and evil were only good and evil with reference to their consequences.' And here laying aside the authority of Dr. Johnson, it would not be difficult for one who professed to be governed by the principle of utility, to decide against the great German, without wavering or misgiving. Where would be the mischief to the moral-sense of the community, were it published to the world that Kant or another had told an untruth to stop a ruffian or a maniac on his way to butchery? Would others feel themselves privileged on his authority, to utter untruth, not for the *advantage*, but for the *injury* of a fellow-creature? In the case supposed, a great immediate evil is prevented. The consequent mischief is, if there be any, but small and remote. If otherwise, or even if it appear so, one would be justified in coming to a different conclusion.

But JACOBI, another German metaphysician, denies the existence of any fixed or definite rule, by which the interpreter of God in the heart of man is bound—the moral sense—for both he and Kant, like the *Friends*, allow an innate moral sense—something not the growth of education, nor subject either to be stifled or produced by circumstances. Jacobi would leave the conscience at full liberty to decide in every case—that being what he considers the voice of God in the heart. Now, so far, without stopping to show whether what is called conscience is or is not the growth of education; for the conscience of a Jew and a Christian, of a Hindoo and a Turk, are always according to the faith in which they were brought up, the Utilitarian would agree with Jacobi. Let your conscience, or in other words, your judgment, judge in every case. Being satisfied that you are going to produce more good than evil, by a given step—take it—by a given act, do it. If you mistake, the fault

is not yours—you are safe, so long as you are honest. But, says MADAME DE STAEL, speaking of this very philosopher, and of this very subject—He is so well guided by his own feelings, that he may not have sufficiently reflected on the consequences of such a rule of morality to the mass of mankind. For what could we say to those, who are going aside from the path of duty, and who should pretend that they were but yielding to the impulses of conscience? Undoubtedly it would be seen that they were hypocrites in what they said; but they have been helped to an argument, which may seem to justify whatever they do; and it is a good deal for men to have a few phrases ready to urge in favour of their deeds. They make use of them at first only to deceive others; but they finish by deceiving themselves.’ This is very well said, but what does it amount to? Only to this, that by urging Utility as the standard of morals, you urge that which is capable of abuse—that which a hypocrite may avail himself of; that which may help a wicked man to a plausible word or two in defence of bad conduct. But after all, what do we care for plausible words in the mouth of a hypocrite or knave? He may urge the finest and boldest of arguments—he may reason like a god—but there stands the fact, there goes the judgment of his fellow—he cannot alter the one, nor stop the other. Few believe a bad man to be sincere; and they who do, are rather inclined to pity than to copy him.

Few are they that ever believe *anybody* to be sincere who, having done what they consider a bad action, declares that he did it with a good motive—with a view to some high purpose. If you are doubtful of this truth, call to mind a case, if you can, where on being satisfied that a neighbour had perpetrated any unworthy act, you have acquitted him immediately on the strength of his tried virtue. How little danger therefore in the pretences of a bad man! Take a

very decided case. Not many years ago, Purinton murdered his whole family—but one of a large household survived to narrate the awful circumstances. Till that event, Purinton bore the best of characters. He was of an amiable temper, and brimful of religious hope. He had been a good father and a good husband. Yet when he hewed his whole family to pieces with an axe, they who had known him for years, were doubtful of his sincerity. He was dead, he had offered up his own life to *prove* his sincerity—he had died with his beloved children—and yet how few were they that believed him to have put them to death from the best and holiest of motives! And of those few that did believe what in truth there can be no doubt of—namely—that he strove to obey, not to disobey what he mistook for the promptings of Divinity, did any one ever believe that Purinton was right? No—but every body looked upon him as a poor bewildered wretch, who had offered himself up in sacrifice to the unknown God, under a fearful mistake—a sort of hallucination like that described in one of Brown's novels, where a father destroys his wife, and I believe a family in the same way, under an idea that he has been commanded to do so, even as Jacob was, to offer up Isaac to the God of the Hebrews. Of what are we to be afraid then? of hypocritical pretension—of the man who lives and flourishes after the violation of that law which others are swayed by; while we are not to be convinced, though one should lay himself down in his grave, red with the blood of his little ones, for proof that *he* has conscientiously applied the great maxim of Utility? I say no—and I say therefore, that Mad. de Stael has gone wide of the mark in the little she has urged against Jacobi.

But, leaving Mad. de Stael, a writer who could not reason, let us go to another—one who was always reasoning or pretending to reason, even while he ut-

tered a joke. (51) I allude to the Rev. Mr. COLTON—the author of *Lacon*. At present I will concede to him the high place that appears to be generally awarded to the sententious and watchful, and vigorous and keen. They who are able to say much in few words, are very apt to pass for more than they are worth—and he may be like others; but I shall not stop now to examine the foundation of his work; it is enough that in his two volumes of maxims, he has thought proper on three several occasions, to allude to the doctrines of Utility with a sneer, and that in two out of the three, he has actually entered into a serious argument to prove that to be absurd—about which he knew just nothing at all.

In maxim cccxxviii—after saying a good deal (for him) about Socrates, and selfishness, and the present state of society, he says, with what in him was almost a spirit of prophecy, he being ignorant at the time, as I shall show hereafter, that the very thing which he foretold and foresaw, was actually in existence while he was writing the prediction—‘*But I foresee the period when some new and parent idea in morals, the matrix of a better order of things shall reconcile us more completely to God, to nature, and to ourselves.*’ Now this, the Utilitarian believes to be the very definition of the great principle of *Utility*, and if the Rev. Mr. Colton had been well acquainted with what he afterwards attempted to ridicule, he would never have written that passage; or having written it, he would have referred to it either as a description, or a prophecy, relating to the *greatest-happiness-principle*, or in other words—to *The greatest happiness of the greatest number*.

But this odd prediction appeared in the first volume of the reverend author’s maxims. After a while, another volume appeared; and he, wishing to have

(51) Some authors, in a vain attempt to be cutting and dry, give us only that which is cut and dried. *Lacon*, xxxiv.

the credit of a discovery which he had not made, or wishing to fulfil his own prophecy, undertook to provide the very law he had spoken of, the new and parent idea in morals—the ‘matrix’ of truth. But how did he do it? Here are his words:

‘There are two principles, however, of established acceptance in morals; first, that self-interest is the main-spring of all our actions, and secondly, that Utility is the test of their value. Now there are some cases where these maxims are not tenable, because they are not true; for some of the noblest energies of gratitude, of affection, of courage, and of benevolence, are not resolvable into the first. If it be said indeed, that these estimable qualities may, after all, be traced to self-interest, because all the duties that flow from them are a source of the highest gratification to those that perform them, this I presume savours rather too much of an identical proposition, and is only a round-about mode of informing us that virtuous men will act virtuously. Take care of *number one*, says the worldling, and the Christian says so too; for he has taken the best care of number one, who takes care that number one shall go to heaven; that blessed place is full of those same selfish beings who, by having constantly done good to others, have as constantly gratified themselves. I humbly conceive, therefore, that it is much nearer the truth to say that all men have an interest in being good, than that all men are good from interest. As to the standard of Utility, this is a mode of examining human actions, that looks too much to the event, for there are occasions where a man may effect the greatest general good, by the smallest individual sacrifice; and there are others where he may make the greatest individual sacrifice, and yet produce but little general good. If indeed the moral philosopher is determined to do all his work with the smallest possible quantity of tools, and would wish to cope with the natural philosopher,

who has explained such wonders, from the two simple causes of impulse and of gravity, in this case he must look out for maxims as universal as those occasions to which he would apply them. Perhaps he might begin by affirming with me that—*men are the same*, and this will naturally lead him to another conclusion, that if men are the same, they can have but one common principle of action, *The attainment of apparent good*; those two simple truisms contain the whole of my philosophy, and as they have not been worn out in the performance of one undertaking, I trust they will not fail me in the execution of another.'

Let us now look a little into our author's reasoning. If you take the whole passage together, it would appear to be a decided attack upon the strongholds of the Utilitarian faith. But, if you examine it piece-meal, and receive what he offers for a substitute as well as for a discovery, you find the Rev. Mr. Colton himself, to be a Utilitarian, though probably without either knowing it or suspecting it. And so with a multitude more.

In the first place, the Utilitarian says that *selfishness*—or in the language of Bentham, who being aware of the mischief done every day, and at every breath by the word selfishness, thought proper to call a proper selfishness, that which looks to the future, a *self-regarding interest*—is the main-spring of all our actions.

Now this the Rev. Mr. Colton flatly denies. He says 'there are some cases where this maxim is *not tenable, because not true*;' for that 'some of the noblest energies of gratitude, of affection, of courage, and of benevolence, are not resolvable into it.' Having said this, which for a common author, who disdains to reason, would be enough to say, he proceeds to the proof. And here we have it—'If it be said indeed that these amiable qualities may after all be traced to

self-interest, because *all the duties that flow from them are a source of the highest gratification to those that perform them*, this I presume, savours too much of an identical proposition, and is only a round-about mode of informing us that virtuous men act virtuously. Take care of *number one* says the worldling, and the christian says so too; for he has taken the best care of number one, who takes care that number one shall go to heaven; *that blessed place is full of those same selfish beings, who by having constantly done good to others, have as constantly gratified themselves.*' Now strange as it may appear, these very passages contain the whole pith and marrow of the Utilitarian's faith. They are just exactly what he teaches and what he believes. He believes that heaven is full of these selfish beings; and that *they* only are happy, *they* only wise, who are selfish on earth in the same way. But is there no distinction to be supposed between the selfishness that sacrifices the future to the present, and that which sacrifices the present to the future? None to be made between that which leads one wretched creature to destroy another for the gratification of a brief and base appetite, whether of the soul or the body; and that which leads another to offer himself up, in sacrifice for the good of others, of a wife or a child, of his country or of the world? Both are influenced by the very same motive—both seek their own happiness—both *enjoy* the reward they look for, though that of one may be the anticipation of what others will say of him hereafter. Are we to have it called a dispute about words then, if we desire to have all selfishness denominated, not *selfishness*, for that word has been so long applied in an ill sense, that it cannot now be used in a good one, but a *self-regarding interest*? Are we to be told that we do not know what we teach, if we say that every man is to be judged by the manner in which his self-regarding interest may show itself? or that when it

is long-sighted and provident, regarding the greatest happiness of the greatest number, it is *virtue*; when short-sighted, and regardless of the greatest happiness of the greatest number—either vice or weakness? But the Rev. Mr. Colton would have you believe that we assert an identical proposition; that when we say the virtuous man acts in a certain way, or the wise man in a certain way; we do but assert that the virtuous man acts virtuously, and the wise man wisely. If so, then every syllogism is an identical proposition; every protracted argument another.

Young logicians, who are just beginning to learn the names of their tools, are always meeting with adversaries who *beg the question*, who *argue in a circle*, or who delight in *identical propositions*. To such, the best tri-angled syllogism that ever was framed, would appear a circle.

But as the Rev. Mr. C. has a high character in the commonwealth of literature, and as they who read such authors are very apt to take what they say for granted, let us try the truth of the charge here made against the teachers of Utility. Let us see if they have been so absurd as to assert an identical proposition; or so childish, as to say that virtuous men act virtuously. What is their doctrine?—they teach that all men are governed by the fear of evil, or the hope of good; that the weak and ignorant however, being prone to judge precipitately, are led into many mistakes in their estimate of both—and particularly with regard to the present and future value of both; that as they become wiser and better, they learn to be more and more long-sighted in their calculations, to deal with more liberality, to make better bargains; in a word to believe that their own happiness is best promoted by promoting *the greatest happiness of the greatest number*. This is the substance of what they

say; and this the Rev. Mr. C. would have it, is an identical proposition.

To show by a familiar example what is understood by a Utilitarian, who speaks of that self-regarding interest alluded to above, let us imagine two men seated at the same table with a favourite bird between them. Let us further suppose that each has fixed upon the same part, for his own share. Now, if these two men are short-sighted '*worldlings*,' rude, coarse, uneducated men, there would most likely be a struggle between them for the knife. Each would be anxious to carve, *that he might help himself first, and secure the part he liked*. But, on the contrary, if these two men were a little better educated, a little longer sighted, the strife would be, not who should get the knife, but who should get rid of it—for *each would expect the favourite piece to be offered him by the carver*. You see plainly now, that he who has got forward but a step or two in the mystery of Utilitarianism, has already arrived at his object—the *very same object* he had in view before, with less trouble, and with less heart-burning. But to carry this a step further—if he be long-sighted enough to look at to-morrow, instead of to-day, when the favourite part is offered him, he will either propose to divide it, or he will waive his share entirely. The better educated he is, and the further he advances in the new faith, the more easy it will be for him *to gratify himself without interfering with the happiness of others*; nay, by promoting the happiness of others.

All our chief pleasures are social—very few are solitary. We cannot bear to live alone—we neither eat nor drink alone—we are unwilling even to pray alone, or to sleep alone—so much and so delightfully are we dependent upon each other for happiness. After all therefore, a self-regarding interest is but another name for a social-regarding interest, concentra-

ted and made more effectual for the good of the human race.

But Mr. Colton proceeds to judge and re-judge the other maxim, that '*Utility* is the test of value.' And here too, just as he did with selfishness, he begins with denying what he ends with admitting. Let the reader refer to that part of the passage quoted, beginning with '*As to the standard of utility,*' and then proceed to the paragraph, where the author, pretending to a discovery of the very *matrix* he had alluded to years before—a sort of philosopher's stone, or elixir of life, in morality—says first, that *Men are the same*—being just what the Utilitarians say; and secondly, that '*If men are the same, they can have but one common principle of action, the attainment of apparent good*'—which is also just what the Utilitarians say; it is but another name for their *self-regarding interest*—it is in fact the very language of Bentham. Who would believe it? Who would believe that in the same breath, a logician like the reverend Mr. C. would gainsay and admit, deny and acknowledge the very same thing? But so it is, and so it ever will be where men are weak enough, or presumptuous enough to talk about what they are ignorant of.

HUME. But Mr. Hume, on the other hand, says Lacon, '*seems inclined to make Utility the test of virtue; and this doctrine he has urged so speciously as to draw after him a third part of the Host of Heaven.*' Paley has been in some degree seduced, but Paley's authority is on the decline.'

PALEY. We must not regard what Mr. Colton says of Paley—Mr. Colton had never read Paley. It is quite impossible that a man should be so silly as to say what Mr. Colton says in the following passages marked in italics, if he had read Paley, or indeed any body else on the subject of Utility. Let the reader judge for himself by referring to the chapter from Paley, page 123.

But continues Mr. C. 'If one were disposed to banter such a doctrine, by pursuing up its conclusions to the absurdities to which they would lead us, one would say that *if a building were on fire, a philosopher ought to be saved in preference to a fool, (certainly) and a steam-engine, or a loom, in preference to either; no parent ought to have any affection or tenderness for a child that was dying of a disorder pronounced to be incurable; and no child ought to take any trouble for a parent that was in a state of dotage. If we met with a beggar with one leg, we ought to give him nothing, but reserve a double alms for a beggar who had two, as being the most useful animal.*'

The most of which is no better than sheer nonsense: And so utterly untrue, that no Utilitarian that ever breathed, ever held such a doctrine. The reader will find a short chapter on the subject, in the sample herewith furnished of Dumont's Bentham. Like that chapter in Paley, it is worth a score of idle essays on Utility, after the reader has been prepared for it.

However, the Rev. Mr. C. is not alone. The most laughable ideas have got abroad concerning the object, and views, the doctrines and the faith of the sect; as if there were any mystery in the matter.

A late EDINBURGH REVIEW, by way of criticising a volume of poetry, has attacked the *Utilitarians*, pretty much as it did the Phrenologists not long ago; talking itself out of breath about a subject, concerning which it was so ridiculously ignorant, that they who knew any thing of it, could not read a page of Mr. Jeffrey's essay without laughing. And the editor of the ALBION, at New-York, has thought proper to say what follows of the said attack,—while enumerating the articles in the Edinburgh.

'*Cunningham's Songs*, which follows, is chiefly to be noticed for its very able *defence of poetry against the levelling and barbarous charges of the Utilitarians*. This is a class, we are sorry to say, fast rising into no-

tice in England; they profess to deal only with the useful, *discarding all the more polished graces of the intellect as so much worthless lumber*; and cling to the dryest and tritest matters of fact, *from what they term their ardent love of truth*. They are, in fact, the Puritans of literature, and richly merit the reprehension they here meet with from the Reviewer.'

In a later number (XCVII.), we have another attack in the Edinburgh Review, on UTILITARIANISM and UTILITARIANS, though not so much on either, as on Mr. John Mill, whom it mistakes for the father James Mill, the writer of the article on Government in the ENCYCLOPEDIA BRITANNICA. Mr. John Mill, it should be observed, is the editor of the work on Evidence, in five large octavos, by Mr. Bentham, and reviewed in a bold, generous style by the Edinburgh Review, No. XCVI.; to which a reply, perhaps from the editor himself, appeared in the Westminster. Between these two Quarterlies, a severe and almost uninterrupted war has been kept up, ever since the Westminster appeared; the three or four first numbers of which were largely occupied with severe and extraordinary papers on the Edinburgh, chiefly by John Mill, and James Mill the father. It is undoubtedly an awkward blunder for the Rev. Sydney Smith, who is undoubtedly one of the cleverest Reviewers of the age; but such is probably the fact. He has mistaken James Mill the father, author of British-India, and of the papers in the Supplement to the Encyclopedia Britannica, for the author of the attacks on the Edinburgh Review,—John Mill the son, a youth of seventeen perhaps at the time the Essay on Government here alluded to was written by the father, and hardly twenty now. (52)

In speaking of this very article, the Albion, of

(52) To avoid repetition, the reader may be referred to note (19), page 45-6.

New-York, calls it 'a severe and biting attack on the *Utilitarians*, founded on the essay of Mr. *John Mill*, the disciple of *Jeremy Bentham*, as published in the Supplement to the *Encyclopedia Britannica*, and says, moreover, by way of clearing the matter up to the people on this side of the Atlantic, 'The Utilitarians hold *that sentiment and eloquence serve only to impede the search after truth, and they therefore affect a plain, negligent and impure style*. They must reason *a priori* upon every thing; and nothing is true with them that is not submitted to this ordeal.'

The *Edinburgh Review* has two excellent reasons for dealing after this fashion with the Utilitarians. I. Within about three years, it has reviewed several works of Mr. Bentham, and always in a style far worthier of him and of the age, than was the habit of other journals. Perhaps the change of political spirit visible in the *Edinburgh Review* (No. XCVI.) may be owing to the desire of atonement. If so, what could be more natural than to attack the Utilitarian faith by a side-wind. It were but a vulgar backing out, to unsay what it had so eloquently and repeatedly said of the founder of that sect, *Jeremy Bentham*. But what should hinder it from attacking it through a foremost disciple and promulgator. II. Ever since the establishment of the *Westminster Review* there has been a very bitter war raging between it and the *Edinburgh Review*. The first arrow was levelled by the *Westminster*. It is not wonderful therefore that the *Edinburgh*, on being told that its adversary was a boy of eighteen, and supposing the same boy to be the author of certain *Essays on Government*, in the supplement to the *Encyclopedia Britannica*,—yet lying within spear's-length of the Reviewer, as well as of sundry vehement and clever attacks on the *Edinburgh Review*, should take the field in earnest, the moment *Mill* could be distinguished from *Bentham*, in a work bearing the name of both.

But read the Westminster Review for yourself; take no man's word for what is there. Look into it for yourself, at any rate, and there you will find a sample of the reform which is hoped for; and not only hoped for, but achieved by a few of the Utilitarians of England—see if that encourages immorality. See if it is in battle-array against all the beauties and graces, all the affections and sympathies of the human heart. You will say no—and yet, the Westminster Review goes much further than the great body of those who have adopted the Utilitarian creed. They say—give us poetry, music, all the fine arts, all the higher and nobler feelings, the poetry of the stage, of trick, and art, and oratory—for all have their use. But do not prefer them to what is more useful, *truth, wisdom, courage, probity*—*The greatest happiness of the greatest number.*

The Edinburgh Review, No. XCVII. is but another sham attack on Utility, under the title of *Utilitarian Logic and Politics*, to cover a real attack on the supposed author of the assault in the Westminster, *Mill*—it being in fact a review of Mill's Essays in the Encyclopedia Britannica.

The review is clever and powerful throughout, very severe throughout, and sometimes very just, even where most severe. But still it abounds in error, misrepresentation and sophistry, which any Utilitarian, or any body acquainted with the doctrines of Utility would instantly perceive, but which could not be exposed here, without employing more time and paper than we have to spare.

One example may suffice to give the reader an idea of the whole review. In page 181, the writer says:

‘But we are rather inclined to think that it would, on the whole, be for the interest of the majority to plunder the rich. If so, the Utilitarians will say, that the rich ought to be plundered. We deny the

inference. For, in the first place, if the object of government be the greatest happiness of the greatest number, the intensity of the suffering which a measure inflicts must be taken into consideration, as well as the number of the sufferers.'

Now on reading the above, who would not suppose that Mr. Bentham and his followers were of opinion, that *if* it was for the *pecuniary* interest of the poor to plunder the rich, the rich ought to be plundered? that no regard to consequences, to the intensity, nor perhaps to the duration or perpetuity of the suffering was to be paid by the followers of Utility? Yet every page, every paragraph, every line of the Utilitarian creed *is to the contrary*. There is nothing, not so much as a word, capable of being tortured into such a meaning. How such a mistake therefore, if it is a mistake, could have been made by such a writer, is inconceivable. He must have taken the silliest misrepresentation of the doctrine for truth; he cannot even have read Bentham on Utility, nor even Paley. The very ground-work of the whole scheme, the chief element of the calculation so insisted upon by Mr. Bentham, is the *intensity* or amount of suffering, not merely for the present but for the future—its extent, duration, perpetuity, &c. are all to be weighed. It is in fact the—*greatest happiness*; not merely what may be misunderstood, or misrepresented—the *greatest happiness of the greatest number*, that we are encouraged to pursue here.

But this is not all. It was not sufficient for book-makers, editors, and reviewers on a large scale to misrepresent or misunderstand the objects, views, and faith of the Utilitarians, the essay and magazine-writers, the getters-up of songs and story-books,—the very newspapers of the day, have had a part in the work. Parry, the Major, has been mentioned already; and Hazlitt, who undertook a sober investigation of the *mind* of Jeremy Bentham.—Good God!—William Hazlitt try-

ing to sound the depth of Jeremy Bentham's mind—as well might he hope to sound the Pacific with a chain of flowers, or with the trinkets at the end of a watch-ribbon.—But so it was ; he talked of Godwin, and he talked of Paley, and he at last concluded to conclude, that Bentham was ‘no great things after all’—a mere ticketer of other men's cast-off ideas. (53) And then, passing by a multitude more, there was the author of *BABYLON THE GREAT*, a writer whom I cannot overlook so readily—so shrewd, so keen, so otherwise to be depended on are his remarks in general. ‘I know not,’ says he, ‘why I should conceal the parties for whom *THE CHRONICLE*, at least at one time labored—they were Richard Carlisle, and a *soi-disant* philosopher somewhere westward of Temple-Bar ; the one of whom labored (perhaps he did it through terror of starvation which was at least some extenuation of his labour) to set men altogether free from the restraints of religion, and the other labored (and if he did it without any necessity of pecuniary reward, that was no extenuation of his labor (Indeed !) *to introduce among the most heartless of his fellow-subjects, notions which would have gone far to subvert not only the moral principles, but the rational feelings of a large proportion of the poorer classes.*’ A grave charge that, a very grave charge ; but luckily for Mr. B. without one word of truth in it. Mr. Bentham preached *Utility* ; and certain of his followers did, I acknowledge, attempt to do what they

(53) The general reader may be reminded here of Newton's controversy with Hooke, who would not allow him to be original. ‘Now is not this very fine ?’ says Newton to Halley. ‘Mathematicians that find out, *settle* and *do all the business* must content themselves with being nothing but dry calculators and drudges ; and another that does nothing but *pretend and grasp at all things* must carry away all the invention as well of those that were to follow him as those that went before.’—‘More than fifty years elapsed,’ says a late biographer of Newton, ‘before the great *physical truth contained and demonstrated in the Principia*, was, we do not say, followed up and developed, but even *understood* by the generality of learned men. So with the *originality* of Bentham. So with the *moral truths* taught in *Morals and Legislation*. See page 20, note (12).

narrowly escaped the exposure they merited and the punishment they would have received at law *for* doing. But *he* had no hand in it—he saw with shame and sorrow the precipitate and foolish misconduct of those, who while they pretended to do good, were in reality sowing the whole neighborhood with mischief.

I need not be more particular now; but a passage from the Odes on CASH, CORN AND CATHOLICS may lead to a plausible conjecture of the truth, even by those who may not have heard of the expedient suggested by Mr. Francis Place, and published and distributed in hand-bills, by two or three of the youngest and most zealous of the boy-converts to Utility. It is to this I have alluded before in page 44, and in page 118—where it is said that certain of their conduct should be punishable at law.

Moore says—wittily enough and bitterly enough, and with remarkable truth—

There's Bentham, whose English is all his own making,
Who thinks just as little of settling a nation,
As he would of smoking his pipe (54)—or of taking
(What he himself calls) his post-prandial vibration. (55)

There are two Mr. Mills too, whom those that like reading
Through all that's unreadable call very clever;—
And whereas Mill senior makes war on *good* breeding,
Mill junior makes war on all *breeding* whatever.

Let me add however, that I would not have this young man punished at law for holding as Moore would have us believe he does; but for teaching to the unmarried, both males and females, by the circulation of papers, describing what, though a filthy expedient, may be a useful one to the poor that are overburthened with a large family, that they may indulge with safety and propriety in any degree of licentiousness consistent with health. It is for this

(54) He never smokes.

(55) The venerable Jeremy's phrase for an after-dinner-walk, says Moore. But see page 25.

that he and others deserve punishment; for such doctrines, so taught *now*, would be productive undoubtedly of ten thousand times more evil than good. What would be the pleasure of a few, to the corruption of the whole body of society?

But enough. To Jeremy Bentham we are indebted for the establishment of the sect of Utilitarians, and for setting forth the whole ground-work of their sublime and simple faith so clearly and so energetically, that people are converted every day by merely reading over his chapter on Utility. They who have perverted the doctrine or departed from it as above, though of the sect of Utilitarians, are not in justice to be regarded as the lawful expounders of their faith. Utilitarians they may be; but in such things their doctrine is not the doctrine of the founder, nor of a thousandth part of his followers.

BIOGRAPHICAL SKETCH

OF M. DUMONT, OF GENEVA.

M. DUMONT, the editor of ten large octavo volumes in French, selected from the manuscripts of Mr. Bentham, was born and educated at Geneva. He was remarkable at an early age for what is remembered now as an eloquent style; and a contemporary of his youth (1) has been heard to declare, that Dumont was remembered by him as the sayer of beautiful and vague things. It is known too that he either wrote some of the discourses delivered by Mirabeau, or furnished him with the materials. (2) He

(1) Albert Gallatin.

(2) Same and Dr. Vaughan, of Hallowell, Maine.—All which is abundantly confirmed by the acknowledgment of M. J. C. L. de Sismondi, in a Biographical Memoir of M. Dumont, just published at Paris in the *Revue Encyclopedique*. I quote from a translation, which appeared in the *Boston Advertiser* of Feb. 10th; and refer also to the *National Gazette* of Jan. 9, 1830, where substantially the same thing is said. ‘The fermentation of minds which was excited by the French revolution, brought him to Paris in the year 1789. He took too lively an interest in the progress of intelligence and the dignity of human nature not to wish to watch closely the greatest effort which a nation has ever made to reach the most noble end. Already illustrious from his talents, brilliant in his mind, he was soon called to associate himself with the men, who were selected for their strength and intelligence to direct the destinies of France, and who knew how to appreciate that of Dumont. Mirabeau seized by a sort of intuition the most important political questions, but he was too much distracted by his passions, and revolted at labour; for this reason he was often seen to appropriate to himself studies which he had not made, and to lay his friends under contributions for researches and even for ideas. One day he was conversing with Dumont in the anti-room of the constituent assembly, a profound remark escaped the latter on the subject which was then under debate.—Mirabeau was struck with the idea, and springing to the tribune, ‘I have said, long since,’ said he, and repeated word for word what he had just heard from the mouth of his friend. Each had so rich a fund of his own, that the plagiarism only caused a laugh. It is asserted that the famous address of the king, proposed by Mirabeau, July 9, 1789, to obtain the sending back of the troops, was composed by Dumont. They undertook together a journal. The *Courier of Province*, designed to develope and render popular the new doctrines; and, as was likely to happen in such a partnership, the most assiduous as well as the most important labour fell upon Dumont.’—*Sismondi*.

afterwards betook himself to the church, and though Mr. Bentham told me that M. Dumont was never a lawyer, and that he was never able to understand the course of law-procedure in England, I have always thought he must have pursued the study of law somewhere, and the idea is supported by the following words, taken out of a passage in his *Traité des Preuves Judiciaires*, p. 136, vol. ii. ‘*Depuis que j’ai suivi notre tribunal à Geneve, j’ai vu,*’ &c. &c.

I shall not attempt any thing more than a biographical sketch of M. Dumont; for my materials are too much scattered, and most of them require to be authenticated. To those who know nothing of his life or character, it may be gratifying however to hear, that he was distinguished not only as a writer, but as a speaker; and that while he was in England, he became celebrated as a reader; (3) so much so, that after being employed as a tutor, in the family of the Marquis of Lansdowne, he received a pension of four hundred pounds in the way of a clerkship, which pension was afterwards augmented to five hundred pounds, equal to about twenty-four hundred dollars of our money, under pretence of rewarding him for the labour he had bestowed on the works of Bentham.

This being the character and these the pursuits of our editor, the wonder is how he ever came to relish the works of a man so remarkable for severity of thought and exactness of language as the author of the *Treatise on Punishments and Rewards*; how he ever had the patience to go through with such a pile

(3) In giving an account of the *Clubs of London*, a writer of the day says, that among the most frequent attendants, were ‘Scarlet, Sam Rogers, the “Pleasures of Memory” Rogers, honest John Allen, brother of the bluest of blues (Lady Mackintosh), M. Dumont, a French emigrant of distinction, the friend and correspondent of the Abbe de Lisle, (author of *Les Jardins*,) whose verses he was somewhat apt to recite, with most interminable perseverance, in spite of yawns, and other symptoms of dislike, which his own politeness (for he was a highly-bred man) forbade him to interpret into the absence of it in others.’

of manuscript as he did—the most difficult manuscript I ever saw; mostly in a foreign tongue, (4) and all upon subjects *entirely new*; and how, considering the light under which Mr. Bentham was viewed in his native country, M. Dumont ever had the courage to persevere as he did. But, on reading *his* Bentham, a part of these perplexities disappear. You find the severity of Bentham's reasoning kept under, the philosophy thereof abridged, the logic subdued, the vigour and amplitude and exactness put aside for something more palatable. Throughout the work, wherever the hand of M. Dumont appears at all, you detect the beautifying, enervating spirit of the declaimer, and the sophist. And if you read over the preface, written wholly by himself, and called a PRELIMINARY DISCOURSE, you will see how far, and in what way his mind is incapable of grappling with the subjects treated of by Bentham.

To know all this however, one must be familiar with Bentham in English. I am. I have read all his works. I have *studied* most of them; and I know instantly where M. Dumont has interposed, though it were to say nothing, but only to prevent his author from saying too much.

Yet to M. Dumont are we deeply indebted. He has made the works of Bentham what they never would have been, but for the order he has reduced them to, and the excellent style in which they are served up—he has made them popular throughout Europe. In France they have published three editions of three thousand copies each, of the work alluded to in the following discourse. It appears in

(4) The Theory of Punishments and Rewards was written in French by Mr. Bentham; and for reasons already referred to. The truth is, that Mr. Bentham having arranged the work in his own head, grew nervous when he thought of writing it in a language the imperfections of which were forever obtruding themselves upon his eye. If he did it in English, he saw that he should never be satisfied with it—a finished work must be made of it or nothing. In French however a drawing would do—a mere outline—a sketch; and therefore he left his own language and betook himself to another.

three large volumes, and has never been offered to the public in English. I was occupied with it at one time, and preparations were made for bringing it forth in London while I was there; but owing to circumstances not necessary to be related here, I threw it up. Of the other works edited by M. Dumont, several editions have appeared; and as most of those who would be likely to purchase them in England, are able to *read* French, if nothing more; and as the French work would not cost, imported into England, more than a third as much as the same work would cost in English, there has been hitherto a considerable sale of the French editions in England.

M. Dumont is still at Geneva, enjoying the pension allowed him by the British government, and occasionally bringing out new editions of these invaluable books. (5)

Since the above was prepared, I have obtained from authority which is not to be questioned, the following particulars concerning M. Dumont. I give it in the very language of the writer, of whose familiar and half-colloquial style it is eminently characteristic.

‘Mr. Bentham on his return from his travels in February 1788, found M. Dumont domiciliated in Lansdowne house. He had then been a year or two in England; he was a citizen of Geneva; his father and family had emigrated from thence to Petersburg, where his father was court-jeweller. Dumont, Stephen, with the addition of some others, was his christian name, had been bred to the church. At Petersburg he became highly distinguished as a pulpit orator. About the year 1786, Col. Isaac Barré, having become blind, had need of a companion to read to him; to occupy this situation, Dumont repaired from Petersburg to London. Barré was one of

(5) Since this was written, the death of M. Dumont is announced in the journals of Europe. See a Biographical Memoir of him in a subsequent page of this work.

the two most confidential friends of Lord Lansdowne in the house of commons. Lord Lansdowne was the head of a party, and for somewhat less than a year, in the years 1782 and 1783, had been prime minister. How it happened, that from Col. Barrè's house Dumont passed into the Marquis of Lansdowne's family, is not remembered. Lord Lansdowne had two sons, one by his first wife, aged about twenty-three, who succeeded him in the marquisate, but though married, died childless; the other, by his second wife, is the present Marquis, aged at that time nine years. The notion is, that Dumont was looked to, by him, as qualified to take a part in the education of the youngest, at least, of these sprigs of nobility, and that for this purpose Barrè, who owed every thing to his patron, was induced to give his consent to the transference.

Lord Lansdowne had been placed in the army, where he served with distinction, in the seven years' war, and formed his connexion with Col. Barrè. The literary, as well as every other part of his education, had either been neglected or misconducted. While yet a subaltern, it happened to him to be quartered in some obscure country town, where he found no society from which he could receive either improvement or amusement. Books, of some sort or other, there were in the town, and to these he was driven as the sole resource that he found open to him. To this incident he was indebted for that love of literature, and fondness of the society of literary men, by which he became so distinguished from his rivals.

In the year 1776, came out Mr. Bentham's first work, the 'Fragment on Government.' In the spring of 1781, the Earl of Shelburne called upon him to express his admiration of the work, and to solicit the acquaintance of the author. The acquaintance ripened into a close intimacy. In the year 1781 or 1782, the greatest part of Mr. Bentham's work entitled, 'Introduction to the Theory of Morals and Legisla-

tion,' being in print, was put by him into Lord Shelburne's hands. The 'Fragment' had been read by his lordship with a degree of enthusiasm, which he took every opportunity to communicate to such of his friends as afforded a promise of being susceptible of it. The work on *Morals and Legislation*, had been read by him with correspondent interest. At the time of Mr. Bentham's return to England, as above, he found Dumont, of course, not unacquainted with it. In the interval between the year 1781 and this year 1788, the matter of that work had received considerable additions in manuscript. Of their conversations on the subject, the result was, the papers being for a time communicated to Dumont and placed in his hands. The whole together, printed and manuscript, being in a state far short of completion, Mr. Bentham could not harbour any such thought as that of publishing it at that time, or at any other than a contingent, as well as indefinitely remote period. Dumont said, that with the help of a little labour, which would carry with it its own reward, he thought that if put into French, he could make such a work of it as need not be afraid of meeting the public eye. Mr. Bentham, considering that on this plan he should stand exempt from the responsibility attached to the publication of a work manifestly imperfect, embraced the proposal, not merely with acquiescence, but with alacrity.

This was in 1788: the next year opened the dawn of the French Revolution. Dumont repaired to Paris. Amongst other features by which the character of the Earl of Shelburne had become distinguished, was the intercourse he had formed and kept up with the most distinguished men of the most distinguished nations of the continent: Dumont failed not to reap the benefit of it. Amongst other persons, he became acquainted with the celebrated Comte de Mirabeau. Of all the active citizens of the time and place, Mi-

rabau was the most active : the most distinguished orator, and the most distinguished writer at the same time. But though on former occasions it was to his own pen that he was principally indebted for his reputation, on this occasion it was to others, that he was exclusively, or almost exclusively, indebted. Under his name, by the title of '*Lettres à ses Commettans,*' came out a periodical on the topics of the day : it was by Dumont that, at the outset, and for a considerable length of time, perhaps the whole of the time,—the pen was held. With him, but under him, was a man of considerable reputation, but whose name is not now remembered. Of these letters of Dumont, a great part of the matter, probably all that was new, was taken from Mr. Bentham's papers: During this interesting period, Dumont was sometimes at Paris, sometimes in London ; at Paris he was, at the time the elections for the second National Assembly were going on ; that assembly, for which Joseph Priestly and Thomas Paine was returned : it is not remembered whether Thomas Paine sat. Brissot then, or soon afterwards, at the head of the party called the Girondists, had been in England not long before the year 1784 : he had contracted an intimacy with Mr. Bentham. Dumont, on his arrival at Paris, had found him busy in canvassing for seats in the Assembly ; among the names for which he had been most active, was that of Jeremy Bentham. Judging from the complexion of the times, Dumont thought it a matter of obligation, laid on him by his duty to his friend, to do what he could to prevent his being stationed in a post of so much danger : without saying any thing to Mr. Bentham, he laboured and succeeded. This was, it is believed, somewhere about the year 1793, but the history of the times will show. After this, Dumont's stay at Paris, it may well be imagined, did not long continue. On his return, he resumed his situation in Lansdowne House, and re-

tained it till about the year 18—, when he paid a visit to his own country, Geneva, where he took a prominent and efficient part in its political affairs. In 1802, came out the first of his translations of Mr. Bentham's works, that in 3 vols. 8vo. '*Traité de Législation.*' Out of this work, seems to have been formed the pretence for a pension of £500 a-year, which he enjoys at present. The history of this pension is curious enough, and not uncharacteristic of the matchless Constitution, the envy and admiration of surrounding nations. In the department of the Exchequer there existed, in those days, a sinecure called the Clerkship of the Pells: produce in fees, about £3,000 a-year. Soon after the accession of Lord Shelburne, this sinecure was found or made vacant, and Col. Barrè was invested with it. Under this clerk, were clerks in considerable numbers, by whom the business was carried on: of these under clerkships, the highest in pay and dignity (pay in fees about £400 a year) was likewise soon after found or made vacant, and found or made a sinecure, and being so found or made, was given to M. Dumont: the said M. Dumont not being a native, this appointment was contrary to an express law, but there are times and seasons at which laws are silent, or tantamount to it. Since then, M. Dumont has figured in a double character and under two different names,—in England, in the Red Book, Stephen Dumont, Esq.; in Geneva, Citizen Etienne Dumont, with an intervening string of other Christian names. In 18—, when Mr. Addington (now Viscount Sidmouth) became Premier, this Clerkship of the Pells was too precious a jewel to be left in non-ministerial hands. Col. Barrè was at this time blind—as such, an object of charity: the sinecure was taken from him, but £3,000 a-year, under the name of pension, was granted to him *in lieu of it*. A son of Mr. Addington's got the *clerkship*. In the year 1806, came a

fresh ministerial change, to which the whigs were indebted for their short-lived reign—First Lord of the Treasury, Lord Grenville : Chancellor of the Exchequer, Lord Henry Petty, youngest of the quondam Earl of Shelburne's (now Marquis of Lansdowne's) two sons. On this occasion, the list of the clerks above mentioned came to be overhauled. For no inconsiderable length of time, Stephen Dumont, Esq. was in a state of trepidation : all this time the sinecure was tottering and threatening to slip from under him. He was not altogether destitute, having made some savings which he had invested in the French Funds, but these had undergone what was called consolidation ; in plain English, two-thirds of the interest on the capital had been struck off. Of this little political earthquake, what was the result ? The £400 a-year, instead of being struck off, was thrown up in the form of a pension, *and had a hundred a-year added to it.*

Since then his time has been passed in vibrating between London, Paris and Geneva ; of late years mostly in Geneva. When in England, a good part of it has been passed at Holland-house, Kensington : sometimes at Bowood, in Wiltshire, the seat of the Marquis of Lansdowne. At Geneva, some years were passed in the endeavour to obtain adoption for a Penal Code, which, as far as it went, was on the principles of Mr. Bentham, as explained in the first published work. During two years, prodigious, M. Dumont used to say, was the consumption of words that took place on the occasion. The persons with whom he had to do, were Aristocrats to the backbone. Next to impregnable was the *vis inertiae* which he had to contend against. In a more particular degree distasteful, was the Rationale, which constitutes so distinguishing an ingredient in those specimens of a Code which may be seen in that work. Without the reasons, it might have passed ; but rea-

son, and reasons, made every thing dry into which they were introduced. At the end of a struggle of several years, M. Dumont has continued to introduce, in some indirect form, into that mixed Constitution in which Aristocracy has, in a high degree, the ascendant, some small additional spice of democracy, insomuch that with reference to the interest of this, his little State (the population of which, by the last changes, has been increased to 40,000 inhabitants) he has the satisfaction of felicitating himself on the not having lived in vain.

Having now furnished the reader with Mr. Bentham's opinion of Dumont—in Mr. Bentham's own language, written while M. Dumont was alive, it may not be improper, to put side by side with it what others have said of him, since his death. In a late number of the *Revue Encyclopedique* there is a Biographical Memoir of M. Dumont, by his intimate friend M. Sismondi. Generally speaking, it is faithful and fair; but sometimes the enthusiastic admirer of M. Dumont has gone widely astray. Believing that such error, so sanctioned, so fortified, and so distributed, are worth correcting—for the *Revue Encyclopedique* is a book of authority,—and circulated in every part of the world—I have thought fair to republish the testimony of M. Sismondi (trusting to the translation above referred to in page 148) with a few brief notes in reply.

SKETCH OF THE LIFE AND CHARACTER OF STEPHEN DUMONT.

BY J. C. L. DE SISMONDI.

Translated from the *Revue Encyclopedique*.

Geneva has just lost one of those citizens who constituted its glory, and who, drawing to this little state the eyes of all Europe, gave to it importance and dignity. M. Stephen Dumont, seized suddenly with in-

inflammation of the bowels, while on a journey of pleasure, died at Milan the 29th of last September, a few hours after the danger had begun to show itself.

M. Dumont, born at Geneva in the month of July, 1759, of a father who had suffered great reverses of fortune, was left from his earliest infancy, with three sisters, to the charge of a mother who had no property, but her talents and great virtues. She formed the character of her son, who loved her, and she lived to a great old age. If from his infancy he had to contend with adversity, from his infancy also he announced that superiority of talents, spirit and intelligence, which enabled him while he followed his classes at college, to repeat to his fellow-students the lessons which he was taking, and to lighten in this manner the sacrifices that his mother was making to procure him a literary education. He was destined to the ecclesiastical career, and was ordained a minister of the Protestant church in 1781. His talent for preaching fixed every eye on him at once. He was only twenty years old—but the recollection is still retained of those sermons preached during the first year of his ministry, when a rich imagination, a style as clear as harmonious, ornamented the effusions of a heart full of sensibility, and a mind always philosophical, even when he was ranging the regions of theology.

But during the youth of M. Dumont, a Genevan could not avoid attaching himself to one of the parties which divided the republic. Professing already, as he did to the end of his life, the love of all men, respect for their moral and intellectual progress, wishing to shelter them as far as depended on himself from suffering and vice, persuaded that every one has more interest in his own well-being and his own development than any other man can have for him, he belonged from that time to the party of liberty and moral perfectibility, and to this party he remained attached

the whole of his life. While very young he united himself by a very tender friendship with the eminent men who directed at Geneva, the party which was denominated there the Representative, or the party professing democratical principles. So when the victory was secured to the opposite one, in the spring of the year 1782, by the armed mediation of France, of Savoy, and of one of the aristocratical cantons, he departed *voluntarily* from a country where liberty appeared in his view to be lost. It has been erroneously asserted that he was exiled. This departure from Geneva was considered by those who triumphed there, as ranging him among the party men; and indeed if this name belongs to those who are immovable in their principles, who never palter with what they believe to be their duty, fifty years' constancy to the same opinions, through the storms which overturned his country and Europe, and which have presented political opinions under so many different points of view, would certainly give to him the most honourable place among the supporters of liberal opinions at Geneva. But if to the name of a party man the idea is attached either of the arts of intrigue, or the passions which stifle benevolence, no man merited it less. His mind, always conciliating, comprehended all opinions, even those most opposite to his own, and met them at their reasonable point; his heart, which could not hate, preserved no resentment either against those who opposed them or against those who wished to injure him. His policy knew no rules but those of frankness and moderation.

In quitting Geneva, M. Dumont went to Petersburg, where he was appointed pastor of the French reformed church; his mother followed him thither, and his sisters were honourably married there. His talents for the pulpit shone there with a new eclat, and caused his acquaintance to be sought by the eminent men, Russians or strangers, who were at the

court of Catharine II. He had remained there but eighteen months, when Lord Lansdowne invited him to England with the intention of employing him to finish the education of his son. It was in the house of this statesman that he formed intimate connexions with some of the men who have done most honour to Great Britain, with Sir Samuel Romilly among others, the most virtuous as well as the most learned of the orators of that country, of whom Dumont was the chosen friend. This attachment, which contributed so much to the happiness of his life, always made him consider England as his second country. At the same time his curiosity, so active respecting every thing which interested the fate of man, made him from them collect those delicate and just observations on the human heart, and that store of anecdote which rendered his conversation always new and *piquante*.*

* * * * *

Meantime the revolution did not long retain its purity, and as soon as scenes of violence and cruelty began to sully the cause of liberty, Dumont quitted Paris, and returned to England, before the sickness of Mirabeau, who died April 2, 1791. The shock of interests and of passions among men who had been brought up under the discipline of the old monarchy and the church, could not continue without manifesting the deplorable effects of the education of the ancient regime. No fixed principle, either of morality or of benevolence, could be deeply implanted in hearts, in the midst of so much falsehood and meanness. The men who had been formed under absolute kings, and under the priests, were as vicious as those whose places they had taken; and as several replaced a single one, society became the victim of the passions, the vices and crimes of several instead

* Here follows a passage relating to Mirabeau, published in page 148.

of an individual. Tyranny was multiplied with the number of those in power, and blood was poured out on every side. When the details of this tyranny, which was called the reign of terror, reached Dumont in England, he was overcome with grief. He thought he saw the cause dishonoured, to which he had devoted his life, and without having taken part in any action with which he could reproach himself, without having contributed to the diffusion of any principle which he wished to disavow, tormented only by the recollection of his wishes so cruelly deceived, he remained for some years plunged in sadness, which almost seemed to him like remorse.

What contributed the most to draw him from this state of depression, was his increased intimacy with the English lawyer, Jeremy Bentham, whom he had known since 1788. The conversation of this extraordinary man, and subsequently the examination of his manuscripts, introduced him to a new career. M. Dumont had studied with ardor the general theory of legislation, as making a part of political economy, but he had not devoted himself especially to jurisprudence. He had seen abuses of the laws on the continent and in England, but he had not attempted to ascend to the principles of right, and he shrunk with a sort of terror before an erudition so vast, so complicated, and often so irrational. It was apparently this sentiment which made him receive with so lively an admiration and a faith so entire, the doctrines of a philosophy which, issuing from a single principle, proceeding always by the same method, with the power of a severe reasoning, established order, regularity and light in chaos. It was the enchanted forest of Tasso, dark, inextricable, and peopled with frightful spectres; suddenly an enchanter cuts for himself straight and regular paths, opens to all the direction to his most secret retreats, and throws over every object a

gentle and equal light. The enthusiasm of Dumont for Bentham was kept up without deviation or division, to the end of his life. The English lawyer was for him, *written reason*, a name that the men of the law have given with less faith to the body of the Roman law. We have sometimes heard him say of what he most admired in other philosophers, 'it is convincing, it is truth itself, it is almost *Benthamic*.'

The submission of so superior a mind as that of Dumont, and at the same time a mind so inquisitive and independent, to another mind, is a phenomenon which was perhaps never exhibited to the same degree. And the astonishment that it causes is doubled when we observe the singularities of the mind which excited such an admiration. Dumont has himself spoken of the manuscripts which his friend put into his hands as 'a first draft,' 'unfinished manuscripts,' 'not corrected,' 'fragments or simple notes'—(Preface to the *Treatise on Punishments*.) This was pointing out but a small part of their disadvantages. But it is from this source that he drew out all the philosophy of Bentham. The public had afterward an occasion to judge of Mr. Bentham's style, when he published himself, of his obscurity, his neologism, his pleasantries at the same time grotesque and learned. (6) The pomp with which he sometimes introduces those trivial notions that the English call *truisms*, the silliness of his enumerations, when he applied what he called his *exhaustive* method to distinguish what is incapable of distinction. Thus we find, in a number of the Edinburgh Review which has recently appeared, these words at the end of a refutation of the Utilitarian system of philosophy. 'We cannot close without expressing the desire that Mr. Bentham may endeavour to find better editors for his compositions. If M. Dumont had not been an editor of

a very different species from some of his successors, Mr. Bentham would never have attained the distinction of giving his name to a sect.'—(Edin. Rev. No. 98; p. 299). (7)

M. Dumont, judging that the manuscripts of Mr. Bentham would never be published, or if they were in the original form, would produce no impression, succeeded in having them given up to him to do what he wished with them; Bentham 'refused at the same time any participation in the work, and declared that he should in no way hold himself responsible for it.' (Theory of Punishments, pref. 10.) Dumont, then, penetrating to the original ideas, remodelled, made them over again, so far as not only to change entirely the style of the work, but also the argumentation, distribution, sometimes *even the results*—suppressing much, sometimes adding, always making more perfect, he finally *produced a system* (8) which has powerfully excited thought and reflection all over Europe. It was at first almost universally adopted by those who pretended to carry philosophy into legislation, later and very recently it has been attacked by force and by a sort of agreement in France and England, but even then it has been with that attention and respect which the great promoters of thought must always impose.

The works produced by this singular fusion of two minds into a single one, were published in the following order. 1. Treatise on Civil and Penal Legislation, Paris, 1802, 3. vol. 2d edition, Paris, 1820—Bossange, father and son. 2d. Theory of Rewards and Punishments, London, 1811, 2 vol. 2d and 3d edition, Paris, Hector Bossange. 3d. Tactics of Legislative Assemblies, followed by a Treatise on Political Sophisms, Geneva, 1816, 2. vol. 4th. Treatise on Judicial Proofs, Paris, 1823, 2 vol. 5th. Of the Organization of the Judiciary and Codification, Paris, 1823, 1 vol.

Numerous manuscripts of Bentham, which have already received the first labour from Dumont, still remained in his hands, and he has disposed of them in favour of one of his nephews, undoubtedly under the persuasion that they in their turn may be brought before the public, and complete this great system.

We shall not attempt here, in the small space which is allowed us, to make known this system or the manner in which it differs from those which before and since have been applied to legislation. The name alone of the philosophy of Utility explains every thing that could be said of it in a few words. As the basis of morality, as a moving principle of the actions of men, either taken individually or acting in society, or in prescribing rules in the name of this society, Bentham and Dumont acknowledge only *the search of the greatest good of the greatest number*. They are on the other hand very desirous to separate their system from that of Helvetius, who acknowledges as the moving principle of men's actions, nothing but personal interest, that is, the greatest good of him who is acting. The difference between the two systems is exactly the weak point of the Benthamic doctrine, the point which is at present most vigorously attacked. Every man of good sense must agree that if he compares two systems of morality, two systems of legislation, two systems of religion, the only means of judging one with regard to the other, the only criterion to determine the best, is to discover which of the two tends most certainly and most directly to the good of all. If under the name of good we comprise moral good, perfection, as well as physical good, we shall find no one to contradict this. But while our reason assists us to determine what is the best for the whole, it does not show that the best for all is the best for ourselves. If the case is presented

where the interest of the whole is opposed to our personal interest, reason, calculation alone will not lead us to prefer the good of the whole to our own. Nothing in our judgment when unaided is opposed to our preferring our present interest when it is very strong and very passionately desired, to the more extensive future interests which we may perhaps never see, or which we have resolved not to see.

If the system of Bentham can be expressed by the phrase 'every one seeks first of all the greatest good of the greatest number'—it is contrary to universal observation; if it is expressed in this phrase, 'every one *ought* to seek above all the greatest good of the greatest number,' this word *ought* admits the existence of another principle superior to that of Utility. This is duty, morality, of which the origin and the motive must be sought elsewhere than in the Utilitarian philosophy, elsewhere than in interest. (9)

This blank in the system which was, a few months since, pointed out by one of the most devoted friends of M. Dumont, by one of those men who admired him most, (M. Rossi, in his treatise of penal law) could not be even comprehended by M. Dumont, because the principle which he invoked as directing men, the principle of benevolence, was so powerful in his heart, that he could not perceive that there was need of any motive, that there was need of its being made a duty to seek the greatest good of the greatest number, even at the expense of his own. Goodness was in him the nature even of things, and when he was asked for a motive for labouring for the greatest good of others, it seemed to him like asking him to prove the evidence. (10)

When Geneva recovered her independence in 1814, M. Dumont hastened to return back to his country, and to bring there a fortune acquired by his literary labours. He looked on Geneva as the object of his

youthful love, all his hopes were attached to it, he honoured a country which honoured him in return, he aspired to see it become a *pattern Republic*, a state in which all the wisest and most benevolent principles should pass from theory to practice, and in which science should be brought to perfection by taking it from all abstractions.—In the midst of these delightful hopes, he was astonished and hurt by seeing a constitution presented and adopted which had been drawn up without consulting any of those who at Geneva had acquired some reputation by the study of the social science. He represented how informal this plan was, and how dangerous it might become, in an address which he, in common with some other citizens, presented to the provisional government. This step suddenly awakened the aristocratical hatreds which had slumbered for twenty years. They were let loose with that outrageous violence which belonged to the old aristocracies, but which are no longer to be met with. M. Dumont, who did not understand hatred, who could not admit a bitter sentiment into his heart, felt extreme grief and was on the point of returning to England. A sentiment of dignity alone restrained him, it told him that he ought to face the storm. The suffrages of his fellow-citizens, which placed him in the sovereign and representative council, made it his duty to contend, that he might save as much as possible of the liberties of his country, and this combat was fortunate and glorious. Notwithstanding that explosion of the old prejudice which had so cruelly surprised him, the chiefs even of the aristocratical opinions which he contended against were struck with the clearness and wisdom of his ideas. He was not only placed on the committee to prepare a law for the representative council, but the project which he presented was adopted in its principles as well as its form by this committee,

tried by the representative council, for the deliberation of the law itself, and finally adopted November 16, 1814. Thus was realized at least for this important object his desire of making Geneva a model of Republics, for there exists no where in practice a law more wise, more clear, more rational, and which attains more completely its different ends, viz.—to protect the minority in the whole course of debate, to preserve logical order in the discussions, that every question may be decided by an expressed will, and that the assembly may never find itself tied by surprise or by induction to what it has not willed; finally, to express the true wish of the majority, on all the parts and on the whole of the law, in the vote.

These rules, which have now become a part of the Genevan customs, and which are observed in all deliberative bodies, whether political or not, have been equivalent to the most important, the most benevolent reform in the constitution. The representatives of the nation have been placed in a situation to execute with intelligence, clearly, completely and with sufficient conciseness all the business with which a great national council can be charged; and while the authors of the constitution had thought they were giving to it only a nominal sovereignty, the most real sovereignty has been fully exercised by it with as much wisdom and moderation as patriotism. M. Dumont published this law at the end of his *Parliamentary tactics*. (11)

The republic had adopted provisionally the French penal code, protesting however against its duration, and earnestly desiring to be delivered from it. In 1817, M. Dumont addressed himself to the first magistrates of Geneva to offer a penal code, almost completed, accompanied with a digested system, to justify all the parts of it; a work borrowed in great part

from the manuscripts of Bentham. The proposition was not admitted under this form. It was thought necessary to make this foreign production more rational, by a profound discussion, before it could become a law of the state, and M. Dumont was joined, May 28, 1817, to a committee charged with preparing a penal code. From the first sittings the plan of M. Dumont was adopted, and they had a settled basis for discussion. Meantime, the code borrowed from Bentham, was so different from the common forms of legislation, that Dumont was subjected to difficulties which were constantly arising, in causing it to be adopted by the lawyers. After twenty-five laborious sittings, by a decree of Jan. 12, 1819, the commission appointed from itself a committee of four members to accelerate this work and give it a more uniform character. This committee in April 1821, had had seventy-five sittings of four hours each, when M. Dumont determined to publish the plan, as it had been drawn up by himself. Since then, new labours have given to it other modifications, without the plan having yet been laid before the sovereign council; one of the most ardent wishes of M. Dumont, to give to his country a penal code, worthy of being a model, has always been delayed, and when the fruits of such continued labour will finally be reported to the councils of the republic, they will have the grief of discussing it, without being enlightened in their deliberation by its author.

A more complete success crowned his efforts for the reform of the system of prisons. He had early remarked the serious inconveniences attached to the mixing prisoners of different classes in one prison. His discourses, his writings finally determined the government to form a commission for establishing a penitentiary prison. He reported for this committee March 1, 1822, to the representative council. 'Give

to the body,' said he, in this report, 'healthy and pure air, and you will banish contagious disorders; place vicious men in a situation where the causes of evil do not exist, where the virtues become for them the means of happiness, and you will necessarily produce virtues. Man is not perverse in his natural state, whatever the dark slanderers of human nature may say; and for the young in particular, crimes are often only accidents, the consequence of ignorance and a bad education. It is the wild stock which is necessary to be engrafted, and which may then bear healthy fruit. The circumstances in which it is necessary to place these moral patients to recover them, are a regimen of habitual labour, of temperance, of tranquillity, of instruction. In this situation all is new for them, every thing concurs to produce favourable impressions. No more exciting conversations, no more quarrels, no more passions fed by gaming and spirituous liquors. No privation of what is necessary, no bad treatment which might exasperate them; moderate labour, of which they receive the fruits themselves, instruction to which they attend, at first against their will, but which soon becomes agreeable to them.'

What he thus announced was finished under his direction. The penitentiary prison was raised according to the panoptic plan that *he had suggested*, that is to say, *that an invisible inspection is extended over all the prisoners at once.* (12) It is the true model of a prison which does honour to Geneva, and which all strangers hasten to visit. The plan of the law for the government of the interior of this prison, which M. Dumont presented in 1824, and which underwent only some slight modifications, is not less worthy to serve as a model to legislators than the prison itself. It has accomplished the design proposed by M. Dumont, and the public vengeance is satisfied in bring-

ing back little by little the guilty to a state which permits them to return again into society.

M. Dumont since that time always continued to take an active and influential part in the labours of legislation. Passions became calm, prejudices were dissipated, the gentleness, moderation and conciliating spirit which were displayed in his character, became always more and more remarkable. The contest had ceased, but it had added still more strength to his opinions and manners. The council always expected a new pleasure when he rose to speak; sometimes he poured a clear light on the principles of legislation, sometimes with a brilliant imagination, gentle or animated, he ennobled the subject of their deliberations, he brought it to the good of all, he animated the details with a grace altogether peculiar to himself, and he left every one proud of a country which nourished such citizens.

It was thus that he employed a life of seventy years, a life always useful to his country and to humanity, a life accompanied almost constantly with health of body and mind, finally a happy as well as an honourable life. M. Dumont felt it himself to be so, for he began his will by an 'act of gratitude toward God for the blessing of a peaceful and free life, which has been principally made happy by the charms of study and the enjoyment of friendship.' This will, by which he distributed legacies among all his relations and all his friends with a delicate attention, either in proportion to their wants or valuable from the memory of him who gave them, appeared to his fellow-citizens as the last accents of that voice so dear to them, which comes yet from the tomb to speak to them of his constant affection, to encourage them to do good, and to show them by his example the happy fruits of virtue.'

NOTES TO THE PRECEDING BIOGRAPHICAL SKETCH, BY J. NEAL.

(6) In alluding to the style—the English style of Mr. Bentham, M. Sismondi has fallen into the vulgar error of the Edinburgh, by supposing that *all* Mr. Bentham's writings require a *translator*. Yet some of them are acknowledged models of style ; the Essay on Usury, and the Judiciary System, for example. Such in fact were all his early writings, and therefore *all* the English MSS. which Dumont has had the clear-starching of.

(7) Here we perceive the origin of our Biographer's opinion, together with his authority. It is the Edinburgh Review forsooth—no writer in which, since the death of Sir Samuel Romilly, had ever read a chapter of Bentham in the original. This I say, as by far the most charitable of two alternatives which are obtruded upon us by the published opinions of the Edinburgh Review.

(8) *Produced a system*—adding *results*—compare this with what is said above about Mr. Bentham's *written reason*.

(9) The doctrine of Mr. Bentham is not chargeable with this nor any other like absurdity. All that he contends for is, that reason herself—illuminated reason—right reason—the reason of Utilitarians—teaches, and not only teaches, but *proves*, that he who labours for the greatest happiness of the greatest number, or according to a late abbreviation of the founder, to the *greatest happiness* of mankind, must *therefore* labour for the greatest happiness of himself ; and that he who *wisely* labours for his own greatest happiness, labours therefore in aid of the greatest happiness of all. And yet upon the opposite of all this, do the Edinburgh Reviewers proceed, whenever they attack the system of the Utilitarians with their school-boy dilemmas. The highwayman may like to live a year in his way and be hanged at last ; rather than drudge through a long life in a vulgar fashion and be hanged at last. But what then ? Is his *right* reason ?—illuminated or educated reason ?—the reason of the Utilitarians ? And if not, how are we to behave ? Shall we not make him wiser if we can ? Shall we not teach him truth, because truth is *not* intuitive ? Is not that in fact the very reason why we should teach him ? But enough. In replying to this particular case put by the Edinburgh Review, and surrendered by the Biographer of M. Dumont, I am only distinguishing one from a multitude of similar misrepresentations or mistakes.

(10) Excellent ; M. Dumont himself, acute and vigorous and clear and profound as he was a moment ago, was not able to perceive the *blank* referred to. And why not ? Because of the goodness of his heart ! Why did it not occur to his biographer that *perhaps* M. Dumont understood the system better than M. Rossi ?

(11) By what is said here, one would believe that the whole system of *Parliamentary Tactics* originated with M. Dumont. And yet the fact is that

Mr. Bentham's work in English was actually printed and *published* thirty or forty years ago, and M. Dumont has added little or nothing to it.

(12) And just so it is here. Can it be possible that M. Sismondi is ignorant of the truth?—If so—what must be the character of the *Revue Encyclopédique*, for such ignorance to pass undetected in its pages? The whole system of the Panopticon, so far as it is described in the passage printed in italics here, originated with Sir Samuel Bentham, the younger brother of Jeremy Bentham, while the former was in the service of Russia. He intended it for a manufactory. But his elder brother, Jeremy, on seeing the plan, instantly seized upon it, and step by step, in a series of letters written in 1787—and actually published in 1791, forming two good sized volumes, produced that very system *with all its reasonings and details*, even to the most trivial, here credited to M. Dumont, by his biographer, in the principal Review of the French empire.

But enough. The merits of M. Dumont are of a nature not to be augmented by *such* misrepresentations. They are matter for history—and for the holiest and grandest of all history, that of the human mind. To the future we leave him therefore, confident that justice will be done to the philosopher and to the disciple, and that without injury to others.

MORALS AND LEGISLATION.

BY JEREMY BENTHAM.

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Translated into French by M. Dumont, with Notes :

AND FROM THE FRENCH, BY JOHN NEAL, WITH NOTES.

PRELIMINARY DISCOURSE. BY M. DUMONT.

THE works contained in these three volumes are only a part of those which I have collected from the manuscripts of Mr. Bentham, and which I announced five years ago, in the *Bibliothèque Britannique*. I have continued my labour, and the whole are now about to appear in succession.

If, in preparing these manuscripts, I had only to make a simple translation, I should have been more easy about the result. But I am not in a situation so fitted to inspire me with confidence. I owe it to the public not to conceal what is altogether my own in the compilation; and I owe it to the author to declare that he has yielded to the solicitations of friendship, and that he has often committed to me with regret, works that were unfinished, and sometimes materials that were not even arranged.

In giving a general idea of what more particularly concerns myself in this enterprise, I must begin with a declaration, which ought to protect me as well from unjust reproach, as from unmerited praise. I beg leave to say that I have neither part nor share in the composition of these different works: they belong to the author, and to him alone. The more highly I prize them, the more eager I am to disavow an honor which would be a usurpation as contrary to the

faith of friendship as to my own character. I am aware that this declaration, which I owe to myself, would be superfluous, if there were none but philosophical readers; such readers would recognize throughout all the diversity of these writings, the work of the same hand, the unity of plan, the original genius—as profound and analytical in the whole of the design, as in the execution of the parts.

My work, which is of a subordinate character, has only been applied to details. It was necessary to make a choice among a great number of various readings, to suppress repetitions, to clear up some obscurities, to bring together all that belong to the same subject, and to fill up the chasms which the author had left in the heat of composition. I have had more to retrench than to add; more to abridge than to extend. The mass of manuscripts which have passed through my hands, and which I have had to decypher and compare, is considerable. I have had much to do for the uniformity of style and in the way of correction; little or nothing for the ideas. Nothing but good husbandry was required for the profusion of wealth that was committed to my care; and I have neglected no pains in my stewardship to make its value known and to put it in circulation.

The changes that I have had to make have varied according to the nature of the manuscript. When I have found several relating to the same subject, but composed at different periods and with different views, I have tried to reconcile them to each other, and so to unite them as to make but one whole. Where the author had discarded something that grew up out of the circumstances of the day, and which would not be interesting nor even intelligible now, I have not always been willing to have it utterly lost, but have rescued, as it were from the ruins, whatever was capable of being preserved. Where he had given himself up to abstractions that were too profound,

or to metaphysics that were, I will not say too subtle, but too dry, I have tried to give more developement to the ideas, and to render them more familiar by applications, by facts and by examples; and I have even permitted myself to scatter a few ornaments over the field of research as I proceeded. I have had to make up some entire chapters, but when I have done so, it has always been after the indications of the author and by the help of his notes; and the difficulty I have experienced when trying to supply his deficiencies would have led me back to a modest opinion of myself, even if I had been tempted astray.

His *Introduction to the Principles of Morals and Legislation*, which is regarded by a small number of enlightened judges as one of those extraordinary works that form an era and a revolution in science, in spite of its philosophical merit, or peradventure because of that merit, produced little or no sensation, and continued almost unknown to the public; although in England it is more common than elsewhere, to forgive a useful book for not being an easy and agreeable book. In making use of several chapters of that work for the *General Principles of Legislation*, I have tried to avoid what interfered with its success—forms that were too scientific, subdivisions that were too numerous, and an analysis that was too abstract. I have not translated the words; I have translated the ideas. I have made in some respects an abridgment, and in others a commentary; but in doing this, I have been guided by the counsels and indications of the author, in a preface, posterior by many years to the work itself; and I have found in his papers all the additions of any importance, that are assembled here.

In considering how that work, which I thought would be limited to two or three volumes extended itself by degrees, and what a vast field I have gone over, I regret that the undertaking should not have

fallen into better hands ; but notwithstanding this I venture to congratulate myself on my perseverance ; being well convinced that these manuscripts would have remained a long while buried from the light, (1) and that the author, always pressing onward in his career, would never have had either the leisure or the courage to give himself up to the ungrateful task of a general revision.

That ardor to produce and that indifference about publishing, that perseverance in the greatest labors and that disposition to throw them aside at the moment of their completion, are phenomena which require to be explained.

From the time that Mr. Bentham had found the great divisions—the great leading classifications, or provinces of the law, he began to embrace the empire of legislation as a whole, and conceived the magnificent idea of treating it in all its parts. He considered it less as composed of detached fields than as forming one single field. He had before him a general chart of the science, and had formed upon this model the particular charts of the several departments. Thus, the most striking characteristic of his writings is their perfect concordance with each other. I found the earliest full of references to treatises that were only planned at the time, but of which the divisions, the forms, and the principal ideas were already marked out. It is thus that having arranged all his matters by a general plan ; every branch of legislation occupies its own particular place, and none is found occupying more than one place in the system. Such order necessarily argues an author who has considered his subject for a long while, and under a variety of aspects, who comprehends it thoroughly, and who has no puerile impatience for renown.

(1) Bentham himself says that they *never* would have seen the light, but for Dumont. See pages 64 and 153. See Sketch of Dumont and the Familiar Anecdotes.

I have seen him throw by a work that was nearly finished, and compose another, to assure himself of the truth of a single proposition, which appeared doubtful to him. A problem in finances has led him back over the whole field of political economy. (2) Some questions of procedure have made him feel the necessity of suspending a work till he had treated of the organization of a judiciary. All this preparatory labour—this labour in the mine, is immense. Without a view of the manuscripts themselves, the catalogues and the synoptical tables, no idea could be formed of it.

But I am not writing a panegyric; and I must acknowledge that the care of arranging and of polishing has few attractions for the peculiar genius of the author. So long as he is impelled by the energy that creates, he feels nothing but the pleasure of composition; but if he pauses to give shape and form, to re-digest, and to finish, he feels nothing but weariness. Let his work be interrupted, and the mischief is incurable; the charm disappears; it is succeeded by disgust; and he is only to be excited by a new object.

The same disposition has prevented him from contributing to the digest that I now offer to the public: it is but rarely that I have been able to obtain either the explanations or the aid that I have needed. It would have been too great a sacrifice to stop in the middle of his career and return upon the footsteps of a period long gone by.

But it is perhaps to this very difficulty that I owe my own perseverance. If I had only had to translate, I should have grown weary of the task; but being left to proceed as I thought proper with the manuscripts, I have been stimulated by an illusion that lasted as long as it could be of any use, and was only dissipated by the completion of the work.

(2) See p. 25, where the anecdote is told of him about writing a book in reply to a note from the British minister. It originated in this fact.

I know not how to give a better general idea of this collection than by a naked enumeration of the treatises out of which it has been composed.

- *1. General Principles of Legislation.
- *2. Principles of Civil and Criminal Jurisprudence.
- *3. Theory of Punishment.
- *4. Penal Code.
- *5. Theory of Reward.

6. Judiciary Organization.

7. Procedure Code.

1. Evidence; 2. Of the ends to be had in view;

3. Of the successive judicial steps from the commencement of an action to the execution of the sentence; 4. Examination of Jury trial.

*8. Manual of Political economy.

*9. Tactics of Deliberative Assemblies; that is to say, principles that are to be observed in the passing of a law, &c. in a political assembly; of proposing, of deliberating, of voting and of deciding.

Besides these principal works, there are others less considerable, some of which indeed are nothing but pamphlets.

*1. Critical Examination of the Declaration of the Rights of Man.

*2. Of the circumstances of time and place to be considered in the framing of laws.

3. Of offences against religion: offences committed by the abuse of the religious sanction.

4. Of invention in the matter of Legislation.

*5. Of the Panopticon; a house of central-inspection to supersede the common prisons.

*6. Of the promulgation of the laws, and of a promulgation separated from the rationale of the laws. (3)

(3) The works designated by an asterisk in this catalogue have all been published, some in three volumes, and others separately. The *Theory of Punishments and Rewards* appeared at London in two vols. in 1811,* and is now reprinting for Messrs. Bossange at Paris. The *Manual of Poli-*

* In French—it has never been translated into English; nor should it be without the corrections of the author. N.

It may appear extraordinary that in so vast an assemblage there is to be found no work upon political constitutions or forms of government. (4) Does the author regard the form as indifferent, or does he think that there is no arriving at certainty on the subject of political powers? Such an opinion would not be very likely to exist in the mind of an English Philosopher, and I may venture to say that it certainly does not in the mind of Mr. Bentham. But he is very far from attaching an exclusive preference to any form of government. He thinks the best constitution for a people is that to which they are accustomed; (5) that happiness is the only *end*, the

tical Economy is incorporated with the *Theory of Rewards*, of which it forms the fourth book, under the title of *Encouragements* (par rapport à) for industry and commerce. The *Tactics of Deliberative Assemblies and of Political Fallacies*, appeared at Geneva in 1816, in two volumes; I have placed it as an appendix to the Critical Examination of the Declaration of the Rights of Man. D.

(4) Here M. Dumont alludes only to the manuscripts he had collected. Mr. Bentham had not then come to the *political* division of his labour. His *Constitutional Code*, his letters on the subject of checks and balances have since appeared; and they go to the substance, not merely to the forms of liberty. N.

(5) Mr. Bentham *did* think so; but his views are altered, and he is now altogether and most decidedly in favour of a republic. There was a time to be sure, when, looking to the mischief that had been produced by change, overthrow and experiment, he was ready to say—

'For forms of Government let fools contest;
That which is best administered is best.'

Of late however he appeals to the growth and history of our United-Republics, and has been most zealously and effectually employed in giving *Constitutional* governments to Europe and to America. Little do we know here, what he and his have done for the liberties of our age. His counsels have been heard throughout Europe, and the greatest statesmen of the day are among his disciples. It may be doubted however whether he is not going too far now. It does not appear very evident to me that a republican form of government would suit every people. They must be prepared for it, educated for it; and they must be surrounded with republican neighbours or separated from danger by impassable barriers; or how are they to carry through their experiments in safety? There is more distinctness and more energy in a despotism; and if the United States were transplanted to the centre of Europe, and surrounded as the states of Europe are, by ambitious, quarrelsome and warlike neighbours, they would probably soon cease to be a republic. They would have to establish fortresses, to keep large armies afoot, to augment the power and stability of their executive, and gradually, as they would be exposed to the intrigue of every neighbouring power, they would be obliged, like Germany and Poland, either to withdraw the election from the hands of the many or to render it less

only object of intrinsic worth, and that political liberty is but a relative good as one of the means to that end. He thinks that a people with good laws, even without any political power, may arrive at a high degree of happiness; and that, on the contrary, with the greatest political power, if they have bad laws, they will be necessarily unhappy.

The fundamental vice of theories upon political constitutions is, that people begin by attacking those which exist, and alarming the jealousy of established power—a disposition not favourable to the improvement of the laws.

The only time for attempting with success, any great reform in legislation, is that when the public mind is calm, and the government enjoys the greatest degree of stability.

The object of Mr. Bentham in looking for the cause of our greatest evils in the laws themselves, has been to escape the greatest of all evils, the overthrow of authority, the revolution of property and power. The actual government is in fact the instrument wherewith he endeavours to work; (6) and in showing to all governments the way to self-improvement, he shows them how to prolong their own existence.

frequent. In a word, the simplicity of a Republic would soon be lost: and our chief-magistrate would soon become, at the best, but a constitutional king. And so too, if Great Britain were transplanted to this New World,—there would soon be a great change in the form of her government. Her expenses would be diminished, her standing armies would disappear, and her fleets and courts, and sinecures would gradually drop off; and after a while, if Mexico did not become a bad neighbour, and if there were no separation of her own territory, she would become either a republic in form or in fact. Her king would be but a president for life (perhaps not even for life)—with some little additional power and prerogative. Would not these be the natural consequences of a change of territory? Let every man judge for himself, and then say whether any one form of government, even though it be *republican*, would be the best for every people. N.

(6) Nothing was ever more true than this; and therefore should we look upon Mr. Bentham as a philosopher. He would strengthen the hands of every government on earth by making it just, and thereby giving it a hold upon the affections of the people. It were easier to reform that which they are accustomed to, so as to make it the best they could bear, than it would be to build up one altogether new. N.

His results are applicable to monarchies as well as to Republics. He does not say to the people—Lay hold upon the supreme authority; change the form of the State: He says to the governments of the earth—Understand the maladies that weaken you; study the means of cure. Let your laws be conformable to the wants and the improvements of the age.

Make good laws, civil and penal. Organize the tribunals of justice in such a manner as to inspire the public with confidence. Simplify procedure. Avoid constraint and waste in taxation. Encourage commerce by natural means. Have you not all the same interest in improving the several branches of administration? Appease the dangerous spirit that is spreading among the people, by promoting their happiness. You have the power of originating the laws, and this right alone, if judiciously employed, might be made the safe-guard of every other. It is by opening a career to legitimate hope, that you check the growth of profligate hope.

They who look in these writings for exclusive principles, unfavourable to this or that particular form of government will be disappointed; and they who need the stimulus of declamation or satire will find nothing here to satisfy them. To preserve while correcting, to study circumstances, to sooth the very prejudices of power; to prepare innovation at a distance, so that it may not appear to be innovation; to avoid violent changes, and the sudden shifting of property and power; to reform abuses without injury to actual interests, and without disturbing the natural course of habits and hopes—such are the objects and such the temper of the whole work.

The first part of this collection, entitled the *General Principles of Legislation* is the only one that is prepared partly from the manuscripts, and partly from a printed work of the author. It is a general

introduction which includes the fundamental principles of all his writings. If one is master of that, all the others will appear but as natural consequences. The title that I should have chosen, but which I have forborne to give, in consequence of objections that perhaps were well founded, is that of *Logic of Legislation*. It contains the principles of reasoning ; it teaches how to employ that principle ; it furnishes new instruments of analysis and of moral calculation.

In the physical sciences, the discovery of a new mode of working is always the commencement of a new era. It is thus that the invention of the telescope, led to the science of astronomy. In general when the human mind stops long at the same point, it is because it has completely exhausted its means of enquiry, and is obliged to wait until some new instrument be discovered for extending its researches and adding to its power.

But what is properly an instrument in moral science? It is a means of bringing together and of comparing ideas ; it is a new method of reasoning. Socrates had one which was suited to him and which was a sort of analysis. To this, Aristotle added a classification : he invented the structure of the syllogism, so ingenious and of so little use. These methods are instruments for the reason, as the rule is for the hand, or the microscope for the eyes. When Bacon gave to his great work the singular title of *Novum Organum*, he considered that philosophical method as a kind of intellectual machine, a logical tool which would improve the art of reasoning and assist in the structure of sciences.

Mr. Bentham has made for himself a system of logic which has its principles, its tables, its catalogues, its classes and its rules ; by means of which he appears to me to have converted into a science, certain branches of Morals and of Legislation which till his time

had been subject only to the speculations of learning, of eloquence, and of wit. (7)

The author himself is very far from thinking that he owes nothing to his predecessors.

All science is necessarily the work of time. We begin by vague conjectures. We observe a few scattered facts. We amass a great store of erudition in which the true and the false are jumbled together. When in the progress of events we have collected a great number of facts, we begin to perceive analogies; we try to reduce them to a system. The reign of imagination and wit precedes that of reason and science. It was for Descartes to prepare ingenious romances about general nature, before Newton could subject it to certain laws; for Leibnitz and Malebranche to conjure up their shadowy metaphysics, before Locke settled the first facts that now serve for a foundation to that science. Plato and Aristotle preceded Bodin, Grotius, Harrington, Hobbes and Puffendorff, all of whom were but preparatory to the Spirit of Laws; and the Spirit of Laws itself is but intermediate to the point where Legislation is to become a complete and simple system.

The author, in an interesting essay, has indicated the progress and the origin of his principal ideas.

‘It is not,’ says he, ‘in the books of law that I have found the means of invention, or the models of method; it is rather in works on metaphysics, on physics, on natural history and on medicine. In reading some modern treatises of the latter I was struck by the classification of mischiefs and remedies. Might we not carry the same order into legislation? Might not the body politic have its anatomy, its physiology, its nosology, its *materia medica*? What I have found in the Treboniuns, the Coccejiis, the Blackstones, the Vattels, the Pothiers, the Domats is very

(7) Here we have a sample of the rhetoric of the author. *Branches* are converted into a Science.

little : Hume, Helvetius, Linnaeus, Bergman, Cullen, have been more useful to me.'

In the very outset, it was necessary to find some one general principle which might be fixed, and to which the whole process of reasoning might refer. This fixed principle he denominated the *Principle of Utility*. But to do only this was to do nothing ; for every body would give the name of *utility* to whatever pleased him ; and nothing is ever done, nothing ever proposed by any body without a view to utility—either real or imaginary. It was necessary therefore to give to the term a precise signification ; and that was a new task.

The author afterwards separated this true principle from two false principles which were associated with it, and which are the ground-work of all the erroneous systems of Morals and Legislation, that are known. By means of one single distinction, easy to be comprehended, we are enabled to separate truth from error with a degree of ease and certainty hitherto without example.

To get a precise knowledge of the principles of utility, it became necessary to exhibit *all the pleasures and all the pains, in a table* ; for they are the first elements—the figures which are to be employed in a moral calculation. As in arithmetic, we proceed upon numbers, the value of which it is necessary to understand, so in legislation we are to work with pains and pleasures, the value of which it is necessary to have exactly estimated.

After this, a method was to be contrived for measuring the value of a lot of pleasures or of pains for the purpose of comparing them together with accuracy. Here an error would be of the greatest consequence. The calculation goes back to the first operations in arithmetic. To know the worth of an action, we have only to add together all the pleasures or advantages which result from it ; and then to add together

all the pains or disadvantages; and to subtract the smaller sum from the larger.

But as the sensibility of mankind is not uniform, and as the same objects affect them more or less, and even differently, the calculation is to be qualified by a new element.

Age, education, rank, fortune, religion, climate, sex, and many other causes have a decided and constant influence. It was therefore necessary to frame an exact table of the *circumstances* which cause the sensibility of men to vary, for the purpose of accommodating the means of legislation as far as possible to the diversity of their impressions.

By calculating the advantages and the disadvantages of an act, it was no difficult thing to find the true character of an offence; but the true character being had, the exact heinousness or gravity was to be estimated. And that is what the author has done by analyzing the progress or march of an evil—that is to say, by observing how it affects individuals, how it spreads from the first sufferer to others, and how it is lessened in some cases and aggravated in others by participation.

Having established these principles, whereby the gravity of offences might be weighed, he contrived a classification as new as it was abundant. By this classification we are enabled to see at a glance what they have in common, and in what they differ: we discover some general maxims which apply without exception to such and such kinds of crime. Chaos is no more....light spreads, and we get a glimpse of the plan of the Legislator. I might multiply such examples; but these are sufficient to explain what I understand by *logical instruments*, which, though necessary to legislation, have nevertheless been wanting till the present time. This analysis, these catalogues, these classifications, while they help us to work with certainty, are a check upon our oversights, a hin-

drance to our going astray from first principles, and serve to render the solution of the most difficult problems mechanical. It is in this way that in running over the table of chemical affinities, the physician preserves the connexion of his thoughts and saves time by the promptitude of his comparisons and recollections.

Uniformity of weights and measures might serve as an object of comparison for giving a better idea of Mr. Bentham's object. He felt the necessity of establishing an invariable principle, which might serve as the foundation for a common measure in morals, and which would give the uniformity required by the most important and most difficult problem in philosophy.

What I call the *Variety of weights and measures in morals* is the double diversity which exists, the one in the judgments of men upon actions reputed good or evil, the other in the principles themselves, upon which those judgments are founded. Hence it is that human actions have no fixed and authentic rate of value, and that the moral estimate varies with every people and with every class; and that having no common rule to refer to; those who happen to agree are always ready to disagree, while those who disagree have little chance of being reconciled; each having but his own authority to help him, cannot hope to prevail over his adversary, and a reciprocal accusation of obstinacy or bad faith, terminates almost always a controversy of opinion, by provoking mutual antipathy.

If there exists, as we cannot doubt there does, a common-interest among the community of nations, and throughout the whole human family;—to discover a uniform system of weights and measures in morals is to discover that common-interest; and the work of the legislator would consist in giving it effect by the sanction of penalties and rewards.

That common-interest will not be discovered but by the profound enquirer into the human heart. As we seek for physical truth among the phenomena of nature, so must we seek for moral truth among the opinions of men. An experimental search of this kind, methodically pursued, would give birth to two new sciences; one of which Mr. Bentham calls *Mental Pathology*, the other *Intellectual Dynamics*.

Mental pathology relates to the sensibility of man considered as a passive being, that is to say, as subject to the influence of various objects, which cause in him the various sensations either of pain or pleasure. The author has laid the foundations of the science in the catalogue of pleasures and pains, and in that of the circumstances that influence the sensibility of man.

Dynamics is the science of moving forces; and intellectual dynamics would therefore be the science that teaches the means of operating upon the *active* faculties of man. The object of the legislator being to guide the conduct of the people, he ought to understand all the springs of the will—he ought to study the simple and compound power of all the motives; he ought to know how to regulate them, to combine them, to counteract them, to augment and to lessen their power at pleasure. These are the levers, the powers, which he will have to make use of, in the execution of his plans.

In medicine, these two sciences have a marked correspondence. We are to study first the passive being, the physical state of man, and all the variations which occur in the living machine, from the influence either of external or internal causes. We are afterwards to understand the active principles, the powers which reside in organization, so as not to counteract them, to keep down such as are hurtful, and to stimulate such as are likely to lead to useful changes.

Considering the work as a whole, it appears to me

to contain a necessary remedy for two kinds of political poison, one of which is distributed by the *Sceptical*, the other the *Dogmatical*.

I understand by the *Sceptical*, those who hold that there are no fixed and universal principles in legislation, that all is conjectural, that tradition is the only guide, that we must leave the laws as they are, and that, in a word, political writers are but a dangerous kind of romance writers, who are able to overthrow, but are not able to build up,—there being no foundation of moral certainty.

This discouraging doctrine, so flattering to egotism and to indolence, is only supported by vague ideas and badly-defined terms: for when we have stated the whole object of the laws in one single expression—the *prevention of evil*—it results, That as human nature is the same everywhere, (8) subject to the same ills and directed by the same motives, there ought to be some general principles which would serve for the ground-work of science. What has been done proves what may be done. Has not the empire of evil been subdued in part, and narrowed and weakened by the successful inroads of prudence and experience? Have we not seen legislation following, with slow steps, the progress of civilization, developing its powers, softening its aspects, acknowledging its mistakes—and meliorated by time? And why should errors in that career prove more numerous than in others?

All the arts, all the sciences have had the same gradations to go through. True philosophy is but lately born. Locke was the first who applied it to the study of man; Beccaria to some branches of legislation; and Mr. Bentham to a whole system. In the condition of the science now, provided with new instruments, with definitions, with nomenclatures, with classifications, and with methods, we must no longer

(8) See Chapter on Utility, p. 139, where the Rev. Mr. Colton's discovery is mentioned. N.

compare it with what it was in the day of its feebleness, poverty, and uncertainty, when there was not even a general division, when the different parts were confounded together, and when offences, the first elements of law, were piled away under the most vague denominations.

As to the *Dogmatical*, they form a variety of sects, and consequently of hostile sects; but in politics they are all inspired. They believe, they command others to believe, and they do not vouchsafe to reason. They have their professions of faith and their magical words—such as equality, liberty, passive-obedience, divine right, rights-of-man, political-justice, natural-law, social-contracts. They have unlimited maxims, universal rules for government, which they apply without distinction, to the past and to the present—since from the elevated station they occupy, they are accustomed to look, not upon the individual but upon the species; and the happiness of one generation ought not to weigh against a sublime theory. Their impatience to act is in proportion to their incapability of doubting, and their intrepid vanity leads them to employ as much violence in what they do, as there is of despotism in what they think.

Nothing can be more opposite to such a dogmatical and peremptory mode of procedure than the system of Mr. Bentham. He was the first to arrange sympathies and antipathies among the false principles of reasoning, and teach a process of moral-arithmetic, whereby all the pains and all the pleasures, and all the circumstances that influence the sensibility are calculated; to tolerate no law which was unaccompanied with its rationale; to refute all the fallacies by which present and individual interests were to be sacrificed to distant and abstract interests. In fine he it is who would not suffer the smallest atom of evil to fall upon the head of the most abandoned malefactor, but on the ground of well-considered necessity. And he is

so far from being arbitrary, so satisfied that we cannot hope to provide for everything, that in treating of the laws which are regarded by him as the best, and most indisputably good, he refuses to make them permanent for a fixed period—to encroach upon the rights of posterity. His system, which is always moderate and always accompanied by a *rationale*, wears a less imposing look therefore, and appears to be endowed with less energy than those of more dogmatical writers. (*) He does not flatter that slothful temper which would learn every thing by a formula or concentrate everything in a few brilliant phrases; he may be unattractive to such as love not the slow operation of the scales and dividers; and he will be sure to stir up the infallibles, by exposing the emptiness of their magisterial talk. ‘*How many things in a law?*’ said he, on finishing his introduction. And assuredly we shall not have comprehended him, nor profited by his principles, if we do not also exclaim after going through his great work—*How many things in a law!*

However great may be the influence therefore to be expected from his writings, it is not probable that they will become popular. They teach a new science; but they teach also the difficulties of a new science. They give certainty to the labours of judgment; but they exact a studious reflection. To accomplish their purpose, disciples are needed; but unhappily for the great work, teachers only are to be met with in the science of legislation.

Fortunate are they, whom the study of this shall render more circumspect and slow in production. Their meditations being concentrated for a long time, will acquire substance and strength.

Facility is the snare of ordinary minds. No great thing is produced with ease. Meteors, that are lighted up in the sudden combustion of the atmosphere,

* *Plus fecit qui judicium abstulit quam qui meruit. Sen. D.*

may dazzle for a moment—but it is only for a moment—and they pass away forever, and leave no trace of their path. He who distrusts his first conceptions and does not evaporate too soon, fortifies his talent by all that he withholds from the indulgence of precipitate vanity; and the respect that he shows for the judgment of the enlightened is a sure guarantee of his own merit. (9)

(9) The passage from Dumont reads thus. I preserve it merely to show, out of his own mouth, how entirely he deserves what I have said of him in a previous note. He is aiming at a simile—and at a sort of antithesis at the same time—and he misses both.

‘La facilité est le piège des hommes médiocres et ne produit jamais rien de grand. Ces météores, créations subites d’une atmosphère inflammée brillent un instant et s’éteignent sans laisser de trace. Mais celui qui se défie de ses premières conceptions, et qui ne s’évapore pas de bonne heure, donne à son talent tout ce qu’il refuse aux jouissances précoces de la vanité; et ce respect qu’il témoigne pour le jugement des hommes éclairés, est un garant sûr de celui qu’il méritera pour lui-même.’ N.

DUMONT'S BENTHAM. (1)

CHAPTER I.

OF THE PRINCIPLE OF UTILITY.

THE happiness of the people ought to be the aim of the Legislator ; *general utility* ought to be the principle of reasoning in legislation. To know what is good for the community whose welfare is at stake, constitutes the science ; to find the means of producing that good, constitutes the art.

The principle of *Utility*, (2) when vaguely taught, provokes little contradiction ; it is even regarded as a common field in morals and in politics. But this almost universal assent is only apparent. People do not all attach the same ideas to the word ; they do not all give it the same value ; and from it there is therefore no consequent and uniform flow of reasoning.

(1) It is to be hoped that our law-makers and *criminal* legislators will read these papers—if nothing more. They are beginning to be *understood* by the people : and what is more, they are beginning to be *relished* by them. It is no longer necessary to repeat the propositions wherewith I began, for the purpose of making *Utility* and the great Teacher of Utility, Jeremy Bentham, thoroughly understood by my countrymen—all of whom are now, or hereafter may be called upon to apply a portion of the knowledge they have insensibly acquired from his writings, not only in the familiar, every-day duties of life, but in the more solemn and affecting ones that occur but rarely to the father, the citizen, the judge, the law-maker and the preacher. N.

(2) The idea of calling the *law* of utility, or the *doctrine* of utility a *principle*, is not very satisfactory. Nor does the after-definition help it. N.

To give to it all the efficacy of which it is capable—in other words, to make it the foundation of general reasoning, there are three conditions to be fulfilled.

The first is to attach to the word *utility* clear and precise ideas, which shall be exactly the same with all who make use of it.

The second is to establish the *unity*—the sovereignty of this principle, by rigorously excluding from it, whatever does not belong to it. It is not enough to subscribe to it generally; there must be no exception whatever.

The third is to find a process of moral arithmetic, by which we may always arrive at uniform results.

The cause of dissent may be referred to *two false principles*, which operate sometimes with a concealed, sometimes with an open influence upon the judgments of men. Were we able to indicate and exclude them, the true principle would remain by itself in its purity and strength.

These three principles are like three different roads; which, while but one leads to the true place, are continually crossing each other. Where is the traveller who has not wandered from one to another, and lost much time and strength in trying to discover the right? The true road, however, is the shortest road; mile-stones are found in it which cannot be transposed, and ineffacable directions in a universal language; and this while the other two abound in contradictory directions inscribed in enigmatical characters. But not to deceive with the language of allegory, let us try to give clear ideas upon the true principle, and the false principles.

Nature has subjected man to the dominion of *pleasure* and *pain*. To them we are indebted for all our ideas. To them we refer all our opinions, and every judgment we give. He who pretends to be free from their influence, knows not what he says; at the

very instant when he appears to avoid the greatest pleasure, and to seek the greatest pain, his ultimate object is to find pleasure and avoid pain. This eternal and irresistible propensity ought to be the chief study of the moralist and the legislator. The *principle of utility* refers every thing to these two motives.

Utility is an abstract term. It expresses the suitability, or the tendency of a thing to preserve from some evil, or to procure some good. *Evil* is pain, or the cause of pain. *Good* is pleasure, or the cause of pleasure. What is conformable to utility, or to the interest of an individual, is whatever tends to augment the sum-total of his happiness. What is conformable to utility, or to the interest of a community, is whatever tends to augment the sum-total of the happiness of the individual composing that community. (3)

A *principle* is a first idea, which we take for the commencement or foundation of our reasoning. Or to make it more sensible to the understanding, it may be regarded as a fixed object to which the first link of a chain is attached. The principle should be evident. To cause it to be received for truth, it should be enough to *explain* it. It is like an axiom in mathematics; it need not be formally proved; it is enough to show that by rejecting it we fall into absurdity.

The *logic of utility* consists in setting out from the calculation or comparison of pains with pleasures in all the operations of the judgment, and in excluding every other idea.

I am a partizan of the principle of utility, when I measure my approbation or my disapprobation of an

(3) But we are not to infer from this, that always and at every moment of time, *apparent* individual good, and the general good are so inseparably the same, that whatever promotes the one, must promote the other. Perhaps A. being poor might be happier, if he were allowed to help himself out of the superfluous wealth of B. But the community would suffer more than A. would enjoy; and so in the long run, perhaps in the next breath, would A. himself, since others would have the same right to partake of *his* superfluity, and to judge for themselves in what it consisted. N.

act, whether public or private, by its tendency to produce pains and pleasures; when I employ the terms *just, unjust, moral, immoral, good, bad*, as collective terms, which express ideas of certain pleasures, or of certain pains, without any other meaning. Be it understood that I take the words *pain* and *pleasure* in their common acceptation, without inventing arbitrary definitions, either to exclude certain pleasures; or to deny certain pains. No subtilty, no metaphysics; we need not consult Plato nor Aristotle. *Pain* and *pleasure* are what every body feels them to be; the peasant as well as the prince, the uneducated-man as well as the philosopher.

To the partizan of the *Principle of Utility* virtue itself is good, only because of the pleasures which are derived from it; and vice an evil, only because of its tendency to produce pain. Moral good is a *good* only because of its tendency to produce physical good; moral evil is bad only because of its tendency to produce physical evil. But by *physical*, I understand the pleasure and pains of the mind, as well as the pains and pleasures of sense. I look to man as he is by nature and by constitution.

If the partizan of the *Principle of Utility* should find in the common catalogue of the virtues, an action from which results more pain than pleasure, he would not fail to regard such pretended virtue as a vice. He would not suffer himself to be carried away by the general error; nor would he lightly believe that false virtues may be lawfully employed in support of the true.

If he should find moreover in the common catalogue of offences, some indifferent action, or innocent pleasure, he would not scruple to remove the pretended offence to the class of legitimate acts; he would feel pity for the pretended criminals, and reserve his indignation for the pretended virtuous, who persecuted them.

CHAPTER II.

PRINCIPLES OF ASCETISM.*

THIS principle is the antagonist of that which has just been treated of. Those who follow it have a horror of pleasure. They hold to be odious and criminal, whatever gratifies the sense. They found their morality upon privations, and their virtue upon self-denial. In a word, contrary to the partizans of *Utility*, they approve whatever tends to diminish enjoyment, and condemn whatever tends to augment it.

This principle has been more or less followed by two classes of men, who, in other respects, bear no resemblance to each other, and who, in fact, mutually despise each other. Philosophers form one class, devotees the other. The ascetic philosophers, stimulated by the desire of praise, flattered themselves that they appeared superior to humanity, in their disdain of vulgar pleasure. They looked to be paid in reputation and glory for all the sacrifices which they appeared to make to the severity of their faith. (4) The ascetic devotees are a sort of mad-men tormented with idle fears. Man, according to them, is a degenerate creature, who ought to punish himself without ceasing for the crime of his birth, and never withdraw his thoughts for a moment, from the everlasting gulph of misery yawning beneath his feet. Nevertheless the

* *Ascetism* signifies by its etymology, *exercise*: it was a word applied to the monks, to describe their minute practices of devotion and penance. B.

(4) 'Does it give you pain?' said a bystander to the naked Diogenes, whom he saw embracing a marble pillar in a cold day. If it does, what becomes of your theory? if it does not, where is your merit? N.

martyrs, even to these extravagant opinions, (5) have a fund of hope. Independent of the worldly pleasure attached to the reputation of sanctity, these pious hypochondriacs persuade themselves that for every instant of voluntary pain here, they will enjoy an age of felicity hereafter. Thus even the ascetic principle is founded upon a false idea of utility. It grew into favour only through mistake.*

The devotees have carried ascetism farther than the philosophers. The philosophers were contented with denouncing pleasure; the devotees have made it our duty to love pain. The Stoics declared that suffering was no evil: the Jansensists have discovered that it is a good.

The philosophical party have never denounced pleasures in the mass, but only such as they called gross and sensual, while they exalted those of sentiment and intellect; it was rather a preference for one, than the exclusion of all. Pleasure, always degraded or disdained under its own name, has always been received and applauded under the name of *politeness*, or *glory*, or *reputation*, or *self-esteem*, or *propriety*.

That I may not be charged with exaggerating the absurdity of the ascetics, I shall seek for the least unreasonable origin that can be assigned to their system. It has been acknowledged already that the attraction of pleasure might be seductive, under certain

(5) Extravagant opinions. Here we have an example of that kind of fallacy which consists in giving our adversary a bad name to begin with. Mr. Bentham calls such words *dislogistick*, in opposition to that other fallacy which consists in giving a good name to whatever we choose to think well of, and which he calls *eulogistic*. This fault belongs to M. Dumont. The author would not be guilty of such an oversight. He never calls an opinion foolish or wicked—he is content with proving it to be so. N.

* That mistake consists in representing God by words as a being of infinite benevolence, while from the prohibitions and menaces which they attribute to him, they suppose all that could be expected from an implacable being who employs his omnipotence only to gratify his malevolence.

We might ask the ascetic theologians what life would be good for, if it were not for the pleasure it enables us to enjoy; and what we can expect from the bounty of God in another world, if he has prohibited pleasure in this. B. Another fallacy; assertion of a mistake for proof. N.

circumstances; that is to say,—it might lead to pernicious acts; to acts, the evil arising from which would be greater than the good. To prohibit such pleasure, in consideration of its bad effects, was the duty of sound morality and good laws. But the ascetics have made a mistake; they have attacked pleasure itself, they have condemned it in general; they have made it the subject of universal prohibition, the sign of a reprobate nature; and it is only out of compassion to the weakness of humanity, that they have been so indulgent as to grant a few particular exemptions.*

* There is no need of citing examples of religious ascetism; but that the reader may the better understand what is meant by philosophical ascetism, I transcribe some passages from Pliny, the naturalist, and from Seneca. Pliny, who should have looked into the mysteries of nature, only to augment the enjoyments of man, appeared to think that every agreeable use of her productions was an abuse and even a crime. In speaking of perfumes, he declaims against the use made of them: it is a horrible pleasure, a monstrous appetite; and he says that one Plotius, being proscribed by the triumvirate, was discovered in his hiding-place by the scent of perfumes,—adding, ‘Such infamy excuses the whole conscription. Are not such men worthy to die?’ *Quo dedecore tota absoluta proscriptio. Quis enim non merito iudice periisse tales?* l. xiii. c. 3.

And here is another thought worthy of him. *Pessimum vitæ scelus fecit qui aurum primus induit digitis*, l. xxxiii. c. 1. ‘The first man who put a gold ring upon his finger was guilty of the most frightful of crimes.’

He is angry with the Egyptians also for having invented a mode of extracting spirituous liquors from grain. ‘Strange refinement of vice! They have found out the secret of intoxicating with water.’ *Heu! mira vitiorum solertia! inventum est quemadmodum in aqua quoque inebriaret.*

Seneca is not always ascetic; but he often is. He is full of puerile and false ideas. Who would believe that under Nero, he could have found leisure to be angry with a recent discovery, by which ice and a snow were preserved through the heat of summer. See his *Natural Questions*, B. IV. C. 13. What a profusion of bitter eloquence upon the perversity of those who drank ice-water in the dog-days. ‘Water, which nature gives gratuitously to all the world, has become an object of luxury; it has a price that varies like that of corn. There are speculators who sell it wholesale like other merchandize! O shame! O modesty!—No, it is not a thirst, it is a fever; a fever which is not in the blood, but in our desires. Luxury has destroyed all that was tender in our hearts, and rendered them harder than ice itself.’

Diderot had perceived the connexion between religious ascetism and philosophical ascetism. ‘Whence comes the intolerance of the ancients?’ he asks. ‘From the same source with that of outrageous bigots. They are ill-tempered, because they wrestle with nature, mortify themselves, and suffer. If they would interrogate themselves in good faith, concerning the hatred which they bear to those who profess a milder morality, they would acknowledge that it is born of a secret jealousy of the happiness which they envy, and which they

CHAPTER III.

THE ARBITRARY PRINCIPLE; OR PRINCIPLE OF
SYMPATHY AND ANTIPATHY.

THIS principle consists in approving and disapproving from sentiment, without admitting any reason for the opinion but the opinion itself. *I love, I hate*—behold the pivot, on which the principle turns. An action is adjudged good or bad, not because it is conformable or otherwise to the interest of those who are affected by it; but because it pleases or displeases the individual who judges. He pronounces like a sovereign: he suffers no appeal: he does not feel obliged to justify his opinion by any reference to the good of society. It is my fixed persuasion, it is my intimate conviction; I feel. Sentiment consults nobody: unhappy is he who thinks otherwise; he is not a man, he is a monster in the human shape. Such is the despotic tone of his sentences.

But somebody may say, Are there men so unreasonable as to put forth their particular sentiments for law, and arrogate the privilege of infallibility? *What you call a principle of sympathy, and antipathy*, is not a principle of reason; it is rather the negation, the annihilation of all principle. From it results a perfect chaos of ideas, since every man, having the same right as another to give his opinion as a law for the opinion

have forbidden to themselves, without faith in the rewards which are to indemnify them hereafter for the sacrifice. *Life of Seneca.* p. 443.

The Stoic was a valetudinarian all his life. His philosophy was too strong. It was a kind of religious profession which people never embrace but from enthusiasm, a state of apathy to which one applies himself with all his power, and under the noviciate of which he dies without becoming a brother. Seneca despaired of continuing a man. *Ib.* p. 414. D.

of others, there would be no common standard, no universal authority to which all might appeal. (6)

The absurdity of the principle is manifest ;—for no man says, *I would have you think as I do, without giving myself the trouble of reasoning with you.* Every body would smile at such ridiculous pretension ; and we have recourse to a variety of disguises for it ; we hide our despotism under some adroit phraseology. Most of the systems of philosophy are in proof.

One man will tell you that he has within him, something which was given to him to teach him to know what is good and what is evil ; and that something he calls either *conscience* or a *moral-sense* : afterwards, working at his ease, he decides that such a thing is good, and that such a thing is bad.—Why ? Because the moral-sense says so to me ; or because my conscience approves or disapproves.

Another appears and changes the phrase : it is no longer the moral-sense, it is *common-sense* which teaches him what is good and what is evil : this common-sense, says he, is a sense which belongs to the whole human family : taking care not to include in his estimate any of those who do not think as he does.

Another assures you that moral-sense and common-sense are dreams ; and that it is the *understanding* which determines what is good and what is bad. His understanding dictates to him so and so : all wise and good men have understandings just like his. As for those who do not think as he does, so much the worse for them ; it is a proof that their understanding is defective or corrupted.

Another will inform you that there is one *eternal and unchangeable rule of right* ; that that rule orders so and so : after which, he retails to you his individ-

(6) Here the reader may have brought to his recollection a celebrated speech lately made in Congress on the subject of State and Federal interpretation. N.

ual opinions, which you are bound to receive as so many branches of the eternal rule of right.

There are moreover a multitude of professors, of jurists, of magistrates, of philosophers, who make your ears ring with the *Law of Nature*: they dispute together, it is very true, upon every article of their own system; but no matter; each one proceeds with the same intrepidity and confidence, and favours you with his opinions as so many chapters of the *Law of Nature*. Sometimes the phrase is modified; it is sometimes called *natural right*, *natural equity*, the *rights of man*, &c. &c.

One philosopher determines to build up a system of morals upon what he denominates *truth*: according to him, there is no evil in the world but untruth. If you kill your father, you commit a crime, because it is a particular mode of saying that he was not your father. Whatever this philosopher does not like, he condemns, under pretence that it is a sort of untruth: It is as if one should say that we ought to do that which ought not to be done.

The most candid of these despots, are those who say openly—I am of the number of the elect; and God takes care to show his elect what is good and what is bad. It is Himself who is revealed to me and who speaks by my mouth. All ye therefore who are in doubt, come to me; I will deliver to you the oracles of God himself.

All these systems and many others are at the bottom, nothing but the *arbitrary principle*, the *principles of sympathy and antipathy*, concealed under different forms of speech. We would establish our own opinions without regard to the opinions of others; these pretended principles are the excuse and aliment of despots, at least of a despotic temper, which would betray itself in practice, if it could with safety. The result is, that with the purest intentions, a man becomes the torment of himself, and the scourge of his kind. If he is of a melancholy character, he sinks

into a state of gloomy silence, bitterly deploring the folly and the depravity of man. If he is of an irritable nature, he declaims furiously against all who do not think as he does : he is one of those fervid persecutors who do their mischief with an air of sanctity ; who blow the fires of fanaticism, with an activity which would seem to proceed only from a sense of duty ; and who overwhelm with reproaches for their perversity and bad faith, all those who do not blindly adopt their consecrated opinions.

It is proper to observe that the *principle of sympathy and antipathy*, may often coincide with that of *utility*. To feel affection for those who benefit us, and aversion for those who injure us, is the universal disposition of the human heart. Thus, from one end of the earth to the other, the common sentiment of approbation for benevolent acts, and of disapprobation for hateful acts. Morals and jurisprudence, guided by this instinct, have therefore most frequently reached the great object of utility, without having any clear idea of the principle. But these sympathies, these antipathies are not sure and invariable guides. Let a man refer his blessings and his evils to an imaginary cause ; and he is subject to groundless affection and to groundless hatred. Superstition, quackery, the sectarian spirit, and the spirit of party, depend almost entirely upon blind sympathy or antipathy.

The most trifling incidents, a difference in make of garb, a slight diversity of opinion, or variety of taste ; either is enough to give to a man the aspect of an enemy. What is history—but a record of the most absurd quarrels, and of the most useless persecutions ? A prince takes up a dislike to some persons who utter certain idle words ; he calls them arians, protestants, socinians, deists. The scaffold is prepared for them : the ministers of the altar get ready the faggot : the day when heretics are burnt to death becomes a national festival. Was there not a civil

war in Russia, after a long controversy, to determine how many fingers were to be used in making the sign of the cross? Were not the citizens of Rome and of Constantinople, divided into implacable factions about the players, the charioteers and the gladiators? and to give importance to these shameful quarrels, did they not pretend that the success of the *'greens'* or the *blues* presaged abundance or scarcity, victory or defeat to the empire?

Antipathy may find itself united with the principle of utility; but it is not even then a good foundation for behaviour. Let one prosecute a robber from resentment. The action is good, the motive dangerous. If it lends a sanction to useful actions, it leads oftener to bad ones. The only sure guide for doing well, under all circumstances, is a consideration of the principle of utility. We may often do good from other motives; but we shall not do good constantly unless we betake ourselves to this principle. Antipathy and sympathy ought to yield to it, to avoid becoming mischievous; but for itself, it needs no regulator; it can admit no other than itself, and the more extended that is, the better.

To conclude. The *principle of ascetism* is directly opposed to the *principle of utility*. The *principle of sympathy* neither rejects or admits it: it pays no regard to it; it floats hither and thither at hazard, between the good and the bad. *Ascetism* is so unreasonable, that its most infatuated followers never dream of carrying it through. The principle of sympathy and antipathy does not hinder its partisans from having recourse to that of utility. The last is the only one which neither asks nor will admit of any exception. *Qui non sub me, contra me*—behold its motto. According to this principle, legislation is a matter of study and of calculation: according to the ascetics, it is a matter of fanaticism: according to the principle of sympathy and antipathy, it is an affair of caprice, of imagination, or of taste. The first ought to please

the philosophers, the second the monks, the third the people, the wit, vulgar moralist, and men of the world.

OF THE CAUSES OF ANTIPATHY.

This principle has such influence in morals and legislation, it is important to trace it up to its secret source.

FIRST CAUSE. *Repugnance of the senses.* Nothing is more common than to pass from a physical, to a moral antipathy, particularly with weak minds. A crowd of innocent animals endure perpetual persecution because they happen to appear ugly. Whatever we are not accustomed to, may excite in us a feeling either of disgust or hatred. What we call a *monster* is only a being, who happens to be unlike all the rest of his species. Hermaphrodites, who know not to which sex they belong, are regarded with a sort of horror, only because they are rare.

SECOND CAUSE. *Wounded pride.* He who will not adopt my opinion, declares indirectly, that, upon this point, he cares little for my intelligence. A similar declaration offends my self-love, and shows me an adversary in the man who not only testifies toward me this degree of contempt, but who propagates it, exactly in proportion as he succeeds in spreading an opinion contrary to mine.

THIRD CAUSE. *Power repelled.* Though our vanity may not suffer, we feel by the difference of tastes, by the resistance of opinions, by the shock of interest, that our power is limited; that on many occasions we are obliged to admit that our authority, which we should like to extend every where, is on the contrary limited on every side. What leads us to feel our weakness, is a secret pain, a seed of discontent with others.

FOURTH CAUSE. *Confidence in the future conduct*

of men weakened or destroyed. We love to believe that others are just what they *should be* for our comfort: every act of theirs which tends to diminish our confidence in them, cannot but give us a secret displeasure. (7) An example of falsehood shows us that we cannot reckon upon what they say, or upon what they promise: an example of absurdity causes a general doubt of their good sense, and therefore of their good conduct. An example of caprice or of levity, makes us conclude that we cannot safely bestow our affection upon them.

FIFTH CAUSE. *Desire of unanimity disappointed.* Unanimity pleases us. Harmony between the opinions of others and ours, is the only outward guarantee that we can have of the truth of our opinions and of the utility of the measures which result from them. Moreover, we love to entertain ourselves with the objects of our taste; it is a source of agreeable remembrance or of agreeable hope. The conversation of those who have a conformity of taste with us, augments our fund of pleasure, in fixing our attention upon these objects, and in recalling them to us under new forms.

SIXTH CAUSE. *Envy.* He who enjoys without injury to any body, ought not, it would seem, to have enemies; but people may say that his enjoyment impoverishes those who do not partake of it.

It is a common observation that envy is more active against recent superiority than against that of a longer duration. (8) Thus the word upstart has always

(7) Wounding to our self-love on other accounts. It shows that we have been *deceived*. And to show us, and others that we have been deceived, what is it but to show that our judgment was not what we are most anxious to have it appear—sound, faithful and discriminating; if not in all things, at least in all that regards the character of those we associate with. We defend those whom we have been familiar with, or expressed a high opinion of, not so much perhaps on their account as on our own; for to admit their unworthiness would be to admit our weakness. N.

(8) Or that of a slower growth. We are startled by a sudden eclipse; we suffer the shadow of night to steal upon us without perceiving it. We are indignant to be beaten by one of yesterday: We bear discomfiture from

found favour. It suffices to describe recent good-fortune: envy adds, like associated or accessory ideas, degrading recollections and affected contempt. Envy leads to ascetism: all men cannot have the same enjoyments, considering the difference of age, of circumstances and of riches; but by privation, they may be reduced to the same level. Envy causes us to incline toward rigid speculation in morals, as a means of reducing the price of pleasures. Somebody has well said that if a man were born with one organ of pleasure more than others, he would be hunted as a monster. (9)

Such is the origin of antipathies: such the bundle of sentiments of which they are composed. To moderate their violence, we should keep in mind that there can be no such thing as a perfect conformity between two individuals; that if one gives himself up to this unsociable feeling, it will go on, forever increasing itself, and narrowing by little and little, the limits of our benevolence and our pleasure; that in general our antipathies re-act upon ourselves; and that it is in our power to weaken them, to extinguish them indeed, by diverting our thoughts from the contemplation of the object which excites them. Happily the causes of sympathy are constant and natural; while the causes of antipathy are accidental and fleeting.

one who has been long before the world much better. Hence our comparative willingness to allow the merit of a stranger—our decided unwillingness to allow that of a school-fellow. The one, for aught we or others may know, has had extraordinary advantages that we never had; the other, we know and every body else knows, had to learn as we learnt. If he outstrip us in our career, it is a mortification that we cannot forgive. It is a demonstration of superiority we cannot escape—of superior industry or of superior talent. N.

(9) Not by all others perhaps; though an individual with a fine ear for music, which is almost another organ, is hunted every where with a strange sort of intolerance; with ridicule, or apathy or unbelief, by those who have little or no ear. The latter cannot forgive, cannot even put faith in the enthusiasm of the former. It is called affectation. The eyes may fill, the lip may quiver, the colour may come and go—but these emotions instead of exciting sympathy, seldom or never fail to provoke reproach or laughter in those who are not gifted with a like ear, or a like enthusiasm. N.

We might arrange the moral writers in two classes ; those who labour to extirpate the venomous plants of antipathy ; and those who seek to propagate them. The first are subject to be calumniated ; the second make themselves respected, for they gratify their vengeance and envy under a plausible pretence. The writings which have become most suddenly popular, are those which have been prepared under the dictation of the very demon of antipathy ; libels, party-works, and satirical memoirs. Telemachus owed its brilliant success, neither to its moral, nor to the charms of the language, but to the general idea that it contained a satire on Louis XIV. and his court. (10) When Hume in his history wished to calm the spirit of party and to treat the passions as a chymist would poisons in analysing them, he roused against himself the whole body of readers: men could not bear to have it proved against them that they were more ignorant than wicked, and that past ages, always spoken of to the disadvantage of the present, were only more fruitful in misery and crime.

Happy for a writer—most happy, when he is able to give himself up to these two false principles: To him belongs the field of eloquence, the employment of figures, vehemence of style, exaggerated phraseology, and all the vulgar nomenclature of the passions. All his opinions are dogmas, eternal truths, unchangeable, immoveable as God and Nature. He exercises in writing, the power of a despot, and proscribes all who do not think as he does.

The partizan of utility is not in a situation so favourable to eloquence. His means are like his object. He cannot dogmatize, nor dazzle, nor astonish ; he is obliged to define all his terms, to employ the same

(10) It may be gratifying to some readers to know that it was the reading of Telemachus, when Mr. Bentham was a child (about seven years of age, I believe,) that led him first into the pathway of UTILITY. He saw so much done for others in that book, that his little heart began to overflow with a desire to do good. N.

word always in the same sense. It takes a long time for him to establish himself, to be satisfied with his premises, to prepare his tools; and he has every thing to fear from that impatience which gets fatigued with preliminaries, and wishes to arrive at once, to great results. Nevertheless that slow and cautious march is the only one that leads to his object; and if it is given to eloquence to scatter truth among the multitude, it is by analysis alone that those truths are to be discerned.

*Non fumum ex fulgore sed ex fumo dare lucem
Cogitat——*

CHAPTER IV.

OPERATION OF THE FOREGOING PRINCIPLES ON THE SUBJECT-MATTER IN REGARD TO LEGISLATION.

THE principle of utility has never been either well-developed or well-followed by any legislator ; but, as we have said before, it has mingled itself with the law, by its occasional alliance with the principle of sympathy and antipathy. General ideas of virtue and vice, formed upon confused ideas of good and evil, have been sufficiently uniform for essential purposes. Legislators in consulting these popular notions, made the first laws, without which society would not have been able to exist.

The principle of ascetism, although embraced with heat by its partizans, in their private conduct, has never had much direct influence upon the operations of government. Every government on the contrary, has diligently labored in the acquisition of power and wealth. The mischief that princes have done, they have done with false views of grandeur and power, or under the influence of particular passions, of which evil to the public, was the result though not the object. The domestic administration of Sparta, which has been so happily called a military monastery, was, considering the circumstances of that state, necessary for its preservation ; or at least it was so regarded by its lawgiver, and it was conformable, under that aspect, to the principle of utility. Christian States have allowed the establishment of the monastic orders ; but their vows were accounted voluntary. To torment another individual against his will was a crime. Saint Louis wore a hair-cloak ; but he did not oblige his followers to wear it.

The principle which has exerted the greatest influence upon government, is that of sympathy and antipathy. In fact, we may refer to this principle whatever has been pursued under a most plausible name, without having happiness for its only object ; good manners, equality, liberty, justice, power, commerce, religion itself ; all worthy objects, and objects that ought to enter into the views of a legislator, but which often lead him astray, since he is accustomed to regard them as the end, and not as the means. He substitutes them for happiness, instead of rendering them subservient to the pursuit of happiness.

Thus in political-economy, a government wholly occupied about commerce and wealth, sees in the whole frame of society, nothing but a workshop ; and regarding man but as a productive machine, pays no regard to his sufferings, provided it can extract profit from them. The customs, exchange, the public-funds occupy its whole thought. It regards with indifference a thousand evils which it might cure. All it requires, is that new means of enjoyment be contrived, while it busies itself with putting new obstacles in the way of enjoyment.

Others have no idea of happiness, but by the way of power and glory. Full of contempt for those states which only know how to be happy in peaceable obscurity, they require intrigues and negociations, and wars and conquests. They do not consider on what misfortunes that glory is to be founded, nor how many victims are to be sacrificed at every bloody triumph. The light of victory or the acquisition of a province conceals from them the desolation of their country, and causes them to mistake the true end of government.

Many are they who never ask if a state is well administered, if the laws protect the property and the person, if the people (to say all in a word) are happy ; what they desire above all, is political liberty, that is

to say, the most equal distribution that may be imagined of political power. Wherever they do not see that particular form of government, to which they are attached, they see nothing but slavery : and if the slaves are satisfied with their condition, if they do not desire to change it, they despise and insult them. They would be always ready, in their fanaticism, to stake the happiness of the nation on a civil war, for the purpose of transferring the powers of government to the hands of those who, by invincible ignorance of their condition, would never be able to use it, but for their own destruction. (11)

(11) How perfectly true this is. Look at our bitter intolerance for the king-bearers of the old world. We reason as if one sort of government would be *always* the best for all sorts of people ; and we have the modesty to suppose that *we* have found, and that *we* are the only preservers of that one sort. Look at Spain, Portugal, and the states of South-America. What is their late history but proof that Bentham saw with a prophetic view into the future, when he wrote this paragraph. The probability is, that if the sternest and strongest military despotism of Europe were transferred to this country and situated as the United States are now, it would soon grow into such a republic, or at least into a much milder monarchy. Having nothing to fear from abroad, it might well afford to be gentle at home. And on the contrary, if the United States were transferred to the heart of Europe, and surrounded with warlike and ambitious neighbors, how long would they continue a republic ? Not a twelvemonth. Let us not be too sure ; let us not be over-arrogant therefore. It may not be so far from the truth as we believe, that, of all governments, ' that which is best administered is best.'

But a friend, for whose opinion I entertain the highest regard, offers the following paragraph on the text above.

' Here we have a defence of the most arbitrary and intolerant form of government. Depart one step from the principle that sovereignty is distributed *equally* among a people—each and every citizen having the same share, and you become an advocate for the unequal distribution of power. When this principle is once admitted, despotism may be defended,—and republicanism (I speak not now of *temporary expedients which may be required by existing circumstances*) in its purity, can no longer be an *ultimate* object with those who are aiming to establish the best form of human government. A monarchy, or an aristocracy, if administered by a clear head and kind heart, might prove a happy form of government to one generation of men, but see upon how uncertain a tenure the happiness of the people rests—upon the life of one man, or of a few men. You may speak of an elective monarchy :—Call the man at its head, king or president,—if he is removed at the pleasure of the whole people, fairly expressed, *he presides over a republic*. If he cannot be so removed, the people have no guarantee that their rights will be respected.'

To all which I reply that I am glad to have the objection stated, since it furnishes an opportunity for preventing wider misapprehension. Mr. Bentham would teach and so would I—precisely what my friend has set forth in his note ; namely, that of all governments *in theory*, a representative republican government is the best. But at the same time—he would teach—that in

These are examples of the fantasies that are substituted in politics to a proper pursuit of happiness. It is not through opposition to happiness itself; but through inadvertence or contempt. They comprehend but a small portion of the plan of utility; they attach themselves to a certain party: they contend against happiness in pursuing some particular branch of the public good; they do not consider that these objects have not a relative value, and that happiness alone, possesses an intrinsic value.

practice it might be proper to add here and there temporary qualification. How would a small republican state be able to endure the shock of ambitious military monarchies—forever thundering at her gates? Answer—by *educating the people*; by *teaching them to know their own value*. By revealing to them the source of true sovereignty. A few Greeks withstood the whole Persian empire, not so much because they were republicans, as because they were *educated* republicans, a nation of sovereigns. *Perhaps* therefore, an ignorant bad people, under an hereditary monarch had better remain so, till they are prepared to enjoy and understand the advantages of a representative system, and an equal distribution of power. This is all that Mr. B. says—or means to say. N.

CHAPTER V.

OBJECTIONS ANSWERED TOUCHING THE PRINCIPLE OF UTILITY.

WE may raise trifling objections to the principle of Utility, we may attack it with small verbal criticism, but there is no room for serious or decided objections.

How would it be possible indeed to attack the principle, but by reasons drawn from the principle itself? To say it is dangerous (12) were to say that it would be contrary to utility to consult utility.

(12) And yet it is dangerous; and so must every other principle, every other doctrine be, *if there is any virtue in it*. Drugs of power, and principles of worth must be *capable* of doing mischief, when misapplied or misunderstood—they are therefore dangerous. Mr. Bentham to be sure, does not perceive that *his* principle may be dangerous; and in a part of the suppressed preface to a late edition of his FRAGMENT ON GOVERNMENT, we have the following passage—a passage so eminently characteristic of the author, and so proper to show that in this particular, his judgment may have been led astray by his *feeling*, that I shall take the liberty to introduce it here. N.

‘The first personage to be produced is Wedderburne: at the time here spoken of, Solicitor General; afterwards, with the title of Lord Loughborough, Chief-Justice of the Common Pleas, and under that and the subsequent title of Earl of Rosselyn, Lord Chancellor.

‘The Fragment had not been out long, when a *dictum* which it had drawn from him, showed me but too plainly the alarm and displeasure it had excited. The audacious work had come upon the carpet: in particular the principle of Utility, which it so warmly advocates: this principle, and the argument in support of it, in opposition to the Whig-Lawyer fiction of the *original contract*. “What say you to it?” said somebody: looking at Wedderburne. *Answer*—“It is a *dangerous* one.” This appalling word, with the application made of it to the principle, contains all that was reported to me. Of the rest of the conversation nothing; any more than of the other parties to it: for on this, as on other similar occasions, what came to me came through cautious strainers: attached to me, more or less, by principle and affection, but to the adversary by pressing interests. The *dictum*, such as it is, though but from this one member of the conclave, will be a sufficient key to whatsoever might otherwise seem mysterious, in the language or deportment of those others.

‘Warm from the mouth of the oracle, the response was brought to me. What I saw but too clearly was—the alarm and displeasure of which it was the evidence; what I did not see was—the correct perception couched in it: the perception I mean of the tendency of the principle, with reference to the particular interest of the particular class, to the head of which the already elevated lawyer was on his way.

‘Till within a few years—I am ashamed to think how few—did this same

The difficulty of the question arises from a sort of perversity in the language. We are accustomed to speak of *virtue* in opposition to *Utility*. Virtue, says some one, is the sacrifice of our interest to our duties. —To express ourselves clearly, we should say, that there are different degrees of interests, and that divers interests under certain circumstances are incompatible. Virtue is the sacrifice of a lesser interest to a greater; of a momentary interest to a durable interest; of a doubtful interest to a certain interest. Every idea of virtue not derived from that notion is as obscure as the motive is precarious.

They who, for convenience, would distinguish politics from morality, and refer the first to the principle of Utility, and the second to that of justice, have but a confused idea of the truth. The whole difference between politics and morals is, that one directs the operations of government, while the other regulates

response remain a mystery to me. The principle of Utility a dangerous principle? Dangerous, to endeavour to do what is most useful? The proposition, (said I to myself) is a self-contradictory one. Confusion of ideas on his part, [for I could find no other cause] was the cause to which I attributed it. The confusion was in mine. The man was a shrewd man, and knew well enough what he meant, though at that time I did not. By this time, my readers, most of them know, I hope, what he meant as well as he did. The paraphrase, by which upon occasion they would expound it, would be to some such effect as this.—“By *Utility*, set up as the object of pursuit and standard of right and wrong in the practice of government, what this man means to direct people’s eyes to, is—that which, on every occasion, is most useful to all those individuals taken together, *over* whom government is exercised. But to *us*, by whom the powers of government are exercised over them,—to us, so far from being most useful, that which would be most useful to them, would, on most occasions, be calamitous. Let this principle but prevail, it is all over with us. It is our interest, that the mass of power, wealth, and factitious dignity we enjoy at other people’s expense, be as great as possible; it is theirs, that it be as small as possible. Judge, then, whether it is not dangerous to *us*. And whom should *we* think of but ourselves?”

‘Thus far Wedderburne. What this one lawyer said, all those others thought. And who knows how many hundred times they may not have said it?’

“Not long after, I found myself in company with him. It was the first time and the only one. It was at the house of my intimate friend *Lind*, of whom presently. Any account of me by him could not but have been in an eminent degree favorable. Wedderburne eyed me, but did not speak to me. He was still Solicitor-General. With all deference, I ventured some slight question to him. It was of a sort that any one could have put to any one. Answer short and icy.”

the doings of individuals; but their common object is happiness. What is politically good, cannot be morally bad, unless the rules of arithmetic, which are good for a large number, are bad for a small one.

We may go wrong, while we persuade ourselves that we are following the principle of Utility. A weak and limited understanding may deceive itself, by taking into view only a small part of the good and evil, which result from a given act. A passionate man may deceive himself by attaching an excessive value to some good, which hinders him from seeing the evil connected with it. What constitutes wickedness is a habit of indulging in pleasures that are hurtful to others; but even that supposes the absence of many kinds of pleasure. But we are not to charge the principle with the faults which are contrary to it, and which alone might serve to regulate it. If a man calculates ill, it is not arithmetic that is in fault; it is himself. If the reproaches that are heaped on Machiavel are just, his errors do not proceed from his not having consulted the *principle of Utility*, but from his having made false applications of it. The author of *Anti-Machiavel* saw this clearly: he refutes the *Prince* by showing that his maxims are pernicious, and that bad faith is bad policy.

Those who, after reading Cicero's Offices, and the Platonic moralists, have a confused notion of Utility as opposed to honesty, often quote the saying of Aristides upon the project, which Themistocles would explain only to him. "The project of Themistocles is *very advantageous*, said Aristides, to the assembled Athenians; but *it is very unjust*." People imagine that they see here a decided opposition of the just to the useful; they are mistaken: it is but a comparison of good and evil. *Unjust* is a term which presents the collective idea of all the mischief resulting from a situation, in which men could no longer trust one another. Aristides might have said, 'The project of

Themistocles would be useful for a moment, and hurtful for ages ; what it would give, is nothing to what it would take away.*

This *principle of Utility*, some one will say—is it not a revival of epicurism?—And we know the corruption of manners caused by that doctrine ; it was always that of the most profligate men.

Epicurus, it is true, was the only one of the ancients, who saw the true source of morality ; but to suppose that his doctrine leads to the consequences that are imputed to it, is to suppose that happiness may be the enemy of happiness itself. *Sic presentibus utaris voluptatibus ut futuris non noceas.* Seneca is here on the same side with Epicurus ; but is it possible to desire more for morals than the retrenchment of every pleasure hurtful to ourself or to others ? And what is that but the *principle of Utility*?

But says another. ‘Every man constitutes himself the judge of Utility for himself : Every obligation will cease whenever it does not accord with his own interest.

Every man constitutes himself the judge of Utility for himself. So it is, and so it should be ; otherwise man would not be a reasonable agent. He who is not a judge of what is good for himself, is less than an infant—he is an idiot. Obligation which holds men to their engagements, is nothing but the sense of an interest of a higher class which prevails over a subordinate interest. Men are not held by the particular utility of this or that engagement ; but in a case where the engagement is an evil to one of the parties, he is held by the general utility of engagements ; by the confidence which every enlightened man wishes

* This anecdote would not be worth the trouble of citation, but for clearing up the sense of the words ; for its falsity has been demonstrated. (See Mitford's *History of Greece*.)* Plutarch, who sought to honour the Athenians, would have had some trouble in reconciling with his noble sentiment of justice, the greater part of their history. D.

* Mitford is unworthy of credit. N.

to have placed in his word, in order that he may be considered as a man of good faith, and enjoy the advantages attached to probity and to esteem. It is not the engagement itself which constitutes the obligation; for there are unlawful and void engagements; And why? Because they are considered hurtful. It is then the utility of the contract which gives it force.

One might easily reduce every act of exalted virtue to a calculation of good and evil. It is neither to degrade it, nor to weaken it, to represent it as the effect of reason, and to explain it in an intelligible and simple manner.

We perceive now into what a circle they are led who refuse to acknowledge the principle of Utility. I ought to keep my promise. Why? Because I am commanded to do so by my conscience. How do you know that you are commanded to do so by your conscience? Because I have the inward feeling. Why ought you to obey your conscience? Because God is the author of my nature, and to obey my conscience is to obey God. Why ought you to obey God? Because it is my first duty. How know you this? Because my conscience tells me so, &c. Such is the everlasting circle out of which we are never to escape; such the source of obstinacy and of invincible error. For if we judge of every thing by sentiment, there is no means of distinguishing between the injunctions of an enlightened conscience, and those of a blind conscience. All persecutors have the same title; all fanatics the same right.

If you would reject the principle of Utility, because it may be misapplied, what would you substitute for it? What rule have you discovered that one cannot abuse? Where is that infallible guide?

Will you substitute for it some despotic principle, (13) which orders men to act in such or such a way, without knowing why, from pure obedience?

(13) In other words a *Despotism* But see the note p. 214, on the representative system. N.

Will you substitute for it some chaotic, vague and capricious principle, founded only upon your inward and peculiar sentiments?

In this case what are the inducements you would offer to persuade men to follow you? Would they be independent of their interest? If they do not agree with you, how will you reason with them, how contrive to conciliate them? Whither will you summon all the sects, all the opinions, all the contradictions that fill the world, if not to the tribunal of a common interest?

The most obstinate adversaries of the principle of utility are those who establish themselves upon what they call the *religious principle*. They profess to take the will of God for the only rule of good and evil. It is the only rule say they, which has all the characteristics required, being infallible, universal sovereign, &c. &c.

I answer that the religious principle is not a distinct principle; it is not one of those treated of, under another form. What is called the will of God, can be (at the best) but his presumed will, since God does not explain himself to us by immediate acts, nor by particular revelations. But how can a man presume to know the will of God? By his own will. But his own will is always directed by one of the three principles above mentioned. How do you know that God does not desire such or such a thing? Because it would be prejudicial to the happiness of man, answers the partizan of utility. Because it contains a gross and sensual pleasure which God reproves, answers the ascetic. Because it wounds the conscience, is contrary to our natural sentiments, and because we ought to detest it without permitting ourselves to examine it. Such is the language of antipathy.

But revelation, says another, is the direct expression of the will of God. There is nothing arbitrary

there. It is a guide which ought to prevail over all human reason.

I will not answer indirectly that revelation is not universal; that even among christians themselves, many individuals do not admit it, and that a common principle of reasoning is required for all mankind.

But I answer that revelation is not a system of politics nor of morals; that all its precepts require to be explained, modified and limited one by another; that taken in the literal sense, they would overthrow the world, annihilate self-defence, industry, commerce, and reciprocal attachment; that the ecclesiastical history is a proof incontestable of the dreadful mischief that has resulted from religious maxims ill-understood.

What a difference between the protestant and the catholic theologians, between the moderns and the ancients! The evangelical morality of Paley is not the evangelical morality of Nicole. That of the Jansenists is not that of the Jesuits. The interpreters of scripture divide themselves into three classes. One party would take the principle of utility for its rule of criticism; another would follow ascetism; another the confused impressions of sympathy and antipathy. The first, far from excluding pleasure, allow it as a proof of the goodness of God: The ascetics are its mortal enemies; if they suffer it, it is never for itself, but with a view to some certain and necessary end. The last approve or condemn it according to their fancy, without being determined by the consideration of its consequences. Revelation is not then a principle of itself. We cannot give this name to any thing, but to that which, while it does not itself require to be proved, serves to prove every thing else.

CHAPTER VI.

OF THE DIFFERENT KINDS OF PLEASURE AND PAIN.

WE experience continually a variety of perceptions, which do not interest us, and which therefore glide over us without fixing our attention. Thus the greater part of the objects that are familiar to us do not produce a sensation strong enough to cause either pain or pleasure. We can give these names but to interesting perceptions, to those which come upon us in a crowd, and of which we desire either a continuance or an end. These interesting perceptions are either simple or complex: simple, if they cannot be subdivided into many; (14) complex, if they are composed of many simple pleasures, or of many simple pains, or even of pleasures and pains together. What determines us to consider many pleasures as one complex pleasure, and not as many simple pleasures, is the nature of the cause which excites them. All the pleasures which are produced by the operation of the same cause we are apt to consider but as one pleasure. Thus a spectacle which gratifies many of our faculties at the same time, by the beauty of the decoration, the music, the company, *les parures* (15) and the acting, constitutes one complex pleasure.

(14) Decomposed into many, says Dumont. *Si on ne peut pas les décomposer en plusieurs.* N.

(15) Untranslatable. *Parure* means a sort of general embellishment, a kind of *keeping*, as the painters call it, in the showyness and relationship of part with part. We say *une femme qui aime la parure: les meubles d'une chambre sont de même parure.* N.

It has required a great labour of analysis to prepare a complete catalogue of simple pleasures and pains; and the catalogue itself is of a character likely to repel readers; for it is not the work of a novelist, who seeks to please and to move, but an account stated—an inventory of our sensations.

SIMPLE PLEASURES.

1. *Pleasures of Sense*: those which relate immediately to our organs, independently of all association, pleasures of *taste*, of *smell*, of *sight*, of *hearing*, of *feeling*; and particularly of good health,—of that happy flow of animal spirits, proceeding from a light and easy enjoyment of existence, without relation to any particular sense, but to all the vital functions: and finally the pleasures of novelty, those which we feel when new objects are offered to our senses. They do not form a different class; but they constitute so large a part as to deserve express mention.

2. *Pleasures of wealth*—are those which result from the possession of a thing that is the instrument of enjoyment or security—these pleasures are the most lively at the moment of acquisition.

3. *Pleasures of skill*—are those which result from a difficulty overcome, from some relative perfection in the management or use of instruments which serve for objects of comfort or utility. A person who plays on the harpsichord, for example, experiences a pleasure perfectly distinct from that which he would feel on hearing the same piece of music played by another.

4. *Pleasures of friendship*—are those which accompany the belief that we possess the sincere regard of such or such individuals in particular, and the right in consequence, of expecting from them gratuitous and spontaneous services.

5. *Pleasures of a good reputation*—are those which accompany the belief that we possess, or may acquire the esteem and regard of the world about us, of the persons in general with whom we have to do, and the right in consequence of expecting from them voluntary and gratuitous services.

6. *Pleasures of power*—are those which a man feels who possesses the means of influencing others by their hopes or their fears, that is to say, by the fear of some evil or by the hope of some good which he may do to them.

7. *Pleasures of Piety*—those which accompany the belief that we possess or shall acquire the favor of God, with the right, in consequence, of expecting particular favors, whether in this life or in the life to come.

8. *Pleasures of Benevolence*—are those which we feel in contemplating the happiness of those we love. We may call them *pleasures of sympathy*, or *pleasures of the social affections*. Their power is more or less expansive; they may be concentrated in a narrow circle or embrace the whole human family. Benevolence may apply itself even to animals, of which we love either the species or individuals: the signs of their comfort agreeably affect us.

9. *Pleasures of Malevolence*—these result from the sight, or from the thought of pain, which beings that we do not love, whether men or animals, endure. We may call them the *pleasures of the irascible passions*, of *antipathy*, of the *anti-social affections*.

10. When we apply the faculties of our minds to acquire new ideas, and discover or believe that we discover interesting truths in the moral or physical sciences, the pleasure that we feel may be called the *pleasure of intelligence*. The transport of Archimedes on discovering the solution of a difficult problem, is readily understood by those who have applied themselves to the study of the abstract sciences

11. After having tasted a particular pleasure, and even in certain cases, after having suffered a particular pain, we love to recall it in its order and retrace it with exactness. These are the *pleasures of memory*. They are as various as the recollections which cause them.

12. But sometimes memory suggests the idea of certain pleasures which we place in a different order, according to our desires, and which we accompany with the most agreeable circumstances that have occurred to us, either in our life or in the lives of other men. These are the *pleasures of imagination*. The painter who copies from nature represents the operations of memory. He who takes here and there a group and associates them as he likes, represents the imagination. (16) New ideas in the arts and sciences, discoveries interesting to our curiosity, are pleasures of the imagination, the field of whose enjoyment is thereby enlarged.

13. The idea of a future pleasure accompanied with an expectation of enjoying it, constitute the *pleasure of hope*.

14. *Pleasures of Association*. Such or such an object gives no pleasure itself; but if it be connected or associated in the mind (or memory) with some agreeable object, it becomes agreeable by participation thereof. Thus, the various incidents of a game at hazard where we play for nothing, owe their charm to their association with the pleasure of gain.

15. There are even pleasures founded upon pains. When we suffer, the cessation or the diminution of pain is a pleasure, and often very lively. We may call these the pleasures of relief or deliverance. They are susceptible of the same variety as the pains.

Such are the materials of all our enjoyment. They are united, they are combined, they are modified in

(16) This the painters call *composing*. N.

a thousand ways to such a degree, that it requires some attention and practice, to be able to detect in a complex pleasure, the simple pleasures that compose it.

The pleasure that the sight of the country gives is composed of different pleasures of sense, of imagination and of sympathy. The variety of objects, the flowers, the colors, the beautiful forms of the trees, the intermixture of shadow and light are grateful to the eye ; the ear is delighted by the songs of the birds, the murmur of waters, and by the slight noise of the wind among the leaves ; the air perfumed with a new vegetation, is another source of pleasure, through the sense of smelling, at the same time that its purity and its lightness quickens the circulation of the blood, and makes exercise more agreeable.

Imagination and benevolence are busy in improving the picture, by calling up ideas of wealth, abundance and fertility. The innocence and the joy of the birds, of the flocks, and of the domestic animals, are agreeably contrasted with the recollection of the fatigues and trials of life. We suppose the inhabitants of the country to enjoy perpetually the same pleasure we feel under the excitement of novelty. And at last, the recognition of our gratitude to the Supreme Being whom we regard as the author of all these benefits, augments our confidence and our admiration.

SIMPLE PAINS.

1. *Pains of privation.*—These correspond with every pleasure, the absence of which excites a sensation of uneasiness. There are three principal modifications.

1. If we desire a certain pleasure, and the fear of losing it is greater than the hope of gaining it, the pain which results from this condition of the mind,

may be called the pain of *desire* or the *pain of unsatisfied desire*. 2. If we have strongly hoped to enjoy it, and all at once that hope is destroyed, the privation is a *pain of expectation deceived*, or *disappointment*. 3. If we have enjoyed a good, or what amounts to the same thing, if we have firmly reckoned upon its possession, and come to lose it, the feeling which results from the loss of it is called *regret*. As to that languor of the soul, which is called *ennui*, it is a pain of privation which does not refer to this or that object, but to the absence of all agreeable feeling.

2. *Pains of the senses*. These are of nine sorts : those of *hunger* and *thirst* ; those of the *taste*, of the *smell*, and of the *touch* produced by the application of substances which excite disagreeable sensations ; those of *hearing* and those of *sight*, produced by the sounds or the images that hurt the organs, independently of all associations ; *excess* of cold or of heat (unless we refer this pain to the touch,) sickness of every sort ; and finally *fatigue*, whether of the mind or of the body.

3. *Pains of awkwardness* : those which we experience in unprofitable attempts, or difficult efforts to apply to all their different uses, all kinds of tools or instruments of pleasure or want.

4. *Pains of enmity*—such as a man feels when he believes himself to be the object of hatred to such or such individuals, and exposed to suffer from their hatred, no matter how.

5. *Pains of a bad reputation*—those which a man feels when he believes himself to be an object of ill-will or contempt to the world around him, or likely to become such. They may be called *pains of dishonor*—*pains of the popular sanction*.

6. *Pains of Piety*.—These result from the fear of having offended the Supreme Being, and incurred his chastisements, either in this life or in the life to come. If they are thought well-founded they are called *reli-*

gious fears; if they are thought ill-founded, they are called *superstitious fears*.

7. *Pains of benevolence*—such as we experience at the sight or thought of suffering, whether to our own species or to brutes. Emotions of pity lead us to weep for the woes of another as well as for our own. We may call these the *pains of sympathy*—*pains of the social affections*.

8. *Pains of malevolence*—the grief we feel in thinking of the happiness of one that is hateful to us. We may call this the *pain of antipathy*; or *pains of the anti-social affections*.

9. 10. 11. The pains of *memory*, of the *imagination*, and of *fear*, are exactly the counterpart of their respective pleasures.

When a single cause produces many of these simple pains, they are considered as one single complex pain. Thus exile, imprisonment, confiscation, are complex pains, which may be decomposed, in following the catalogue of *simple pains*.

If the labor of preparing this catalogue is dry, it is one of the greatest utility. Every system of morals, every system of legislation rests upon this foundation—a *knowledge of pains and pleasures*. It is the germ of every clear idea. When we speak of virtues and vices, of innocent or criminal actions, of a system of punishment or reward, what do we? we speak of pains and pleasures, and of nothing else. A reason in morals or in legislation which cannot be translated by the simple words *pain* and *pleasure*, is an obscure and sophistical reason, from which nothing can be drawn.

You wish, for example, to study the subject of *crimes*; this great object which governs legislation. That study at the bottom is but a comparison of a calculation of pains and pleasures. You will consider the *crime* or the *evil* of a certain action, that is to say, the pains which result from it to such or such

individuals : the *motive* of the delinquent, that is to say, the attraction of a particular pleasure which has led him to its perpetration ; the *profit* of the crime, that is the acquisition of some pleasure which has been the consequence of it ; the *legal punishment* to be inflicted, that is to say, some one of those pains, which it is necessary to visit the guilty with. This theory of pains and pleasures then, is the foundation of all science.

The more we examine these two catalogues, the more matter we shall find for reflection.

We perceive first that we may divide pleasures and pains into two classes : *pleasures and pains relating to others* :—*pleasures and pains purely personal*. Those of benevolence and of malevolence compose the first class : all the others belong to the second.

We perceive in the second place, that there are many kinds of pleasure which have no correspondent pain. 1. The *pleasures of novelty* ; the sight of new objects is a source of pleasure, while the simple absence of new objects is not felt as a pain. (17) 2. The *pleasures of love*—their privation does not produce positive pain, unless that privation be accompanied by disappointed desire ; some temperaments may suffer, but continence in general is an appetite for pleasure, which is any thing but a painful state. 3. The *pleasures of wealth and of acquisition*—they have no correspondent pains, when there is no disappointed hope or longing ; to acquire is always agreeable—but non-acquisition is not felt as a pain. (18) 4. The *pleasures of power* are in the same case. Their possession is a good ; their simple absence is not an evil—it is never felt as an evil, but under particular circumstances, such as privation, or disappointed hope.

(17) *Quere.*—For what is lassitude, or that weariness of place or habit, of sound or food which we call *sameness* ? And so of the other classes. N.

(18) *Quere.* What is covetousness?—being, a *desire* that cannot be satisfied, like the desire of pleasure. N.

CHAPTER VII.

OF PAINS AND PLEASURES CONSIDERED AS SANCTIONS.

WE cannot influence the will but by motives; and he who speaks of *motive*, speaks of *pain* or *pleasure*. A being whom we could not cause to feel either pain or pleasure, would be entirely independent of us. The pain or pleasure that is attached to the observation of a law, forms what is called the *sanction* of that law. The laws of one state are not laws in another, having no sanction in that other—no binding force.

We may divide good and evil into four classes.

1. Physical.
2. Moral.
3. Political.
4. Religious.

We may consequently distinguish four sanctions in considering these varieties of good and evil, under the character of punishment and reward attached to certain rules of conduct.

1. The pains and pleasures that we may experience or expect in the ordinary course of Nature, acting by herself without the intervention of man, compose the *physical* or *natural* sanction.

2. The pains or the pleasures that we may experience or expect from men, by reason of their hatred, or their friendship, of their esteem or contempt, of their spontaneous disposition with regard to us, compose the *moral* sanction. We may call this the *popular* sanction, the *sanction of the public opinion*, (19) the

(19) Elsewhere Mr. Bentham has called this, with great propriety, the public-opinion-tribunal. N.

sanction of honor, the sanction of the *pains and pleasures of sympathy*.*

3. The pains or the pleasures that we may experience, or expect from the magistrates, by reason of the laws, compose the *political sanction*; it may be called the *legal sanction*.

4. The pains and the pleasures that we may experience, or expect, by reason of the menaces and promises of religion, compose the *religious sanction*.

A man has his house destroyed by fire. Is it the effect of his imprudence? It is a pain derived from the natural sanction. Is it by the sentence of a judge? It is a pain derived from the political sanction. Is it the malevolent work of his neighbours? It is a pain of the popular sanction. Does he imagine it an immediate act of the offended divinity; it will then be a pain of the religious sanction, or vulgarly speaking, a judgment of God.

We see by this example that the same natural pains are connected with all the sanctions. (20) The difference is only on the circumstances which produce them.

This classification will be of the greatest use in the progress of this work; it is an easy and uniform nomenclature, absolutely necessary for separating and characterising by a proper denomination, the different sorts of moral-powers of intellectual-levers which form the mechanics of the human heart.

These four sanctions do not operate upon all mankind in the same manner, nor with the same degree of force; they are sometimes rivals, sometimes allies, and sometimes enemies: when they agree, they work with irresistible force; when they are at war, they reciprocally enfeeble each other; when they are ri-

* The pains and pleasures of sympathy may be considered as forming a distinct sanction. D.

(20) Dumont says—*que les memes peines en nature appartiennent a toutes les sanctions*. N.

vals, they lead to uncertainty and contradiction in the behaviour of men.

We might imagine four different bodies of law corresponding to these four sanctions. It would be carrying them to the highest degree of perfection, if the whole four were united in one. But this event is yet afar off, though it may not be impossible. The legislator ought to keep in mind perpetually that *he* has to do only with the political sanction. The three other powers will be necessarily its rivals or its allies, its adversaries or its ministers. If he neglects them in his calculation, he will be deceived in his results; but if he can cause them to concur in the promotion of his views, he will operate with prodigious power. He cannot hope to unite them, unless it be under the standard of Utility.

The natural sanction is the only one which acts forever, the only one which acts of itself, the only one which is immoveable in its principal characteristics; it is that which insensibly draws to itself all the others, which corrects all their errors, and produces whatever there is of uniformity in the opinions and judgments of men.

The popular and religious sanctions are more moveable, more changeable, and more dependent upon the caprices of the human mind. The force of the popular sanction is more equable, more permanent, more inexorable, (21) and more constantly accordant with the principle of utility. The force of the religious sanction is more unequal, more variable (according to times and persons) and more subject to dangerous errors. It is weakened by repose and excited by opposition.

The political sanction is superior, on some accounts, to both the others: it acts with a more equal force upon all mankind; its precepts are more clear and precise; its operations more sure and more

(21) *Plus sourde.*

exemplary ; in a word, it is more capable of perfection. Every step has an immediate influence upon the progress of the other two, but it is confined to actions of a certain kind ; it has not effect enough upon the private conduct of individuals ; it cannot proceed but upon proofs, which it is often impossible to obtain, and it is evaded by concealment, by force, or by fraud. Thus, whether we examine in these different sanctions what they do, or what they cannot do, we see the necessity of not rejecting any, but of employing all, in directing them toward the same end.

They are loadstones, the virtue of which is destroyed in suffering their opposite poles to touch, while that virtue is increased tenfold by bringing them together by their correspondent poles.

We may observe, in passing, that the systems which have most divided mankind, have been built only on an exclusive preference of the one or the other of these sanctions. Each has had its partisans, who have sought to elevate it above the others. Each has had its enemies who have laboured to *degrade it*, in showing its weak points, in magnifying its errors, in recording all the evil which has proceeded from it, without paying any attention to the good. Such is the true theory of those paradoxes, whereby nature is put in array against society, politics against religion, religion against nature and government.

Each of these sanctions is susceptible of error, that is to say, of some application contrary to the principle of utility ; but, in following the nomenclature which has just been explained, it would be easy to indicate the source of danger by a single word. Thus, for example, the opprobrium which, after the punishment of a criminal, rests upon an innocent family, is an error of the popular sanction. (22) The offence of

(22) *Query.* For it certainly does appear to be a law of nature in the first

usury, that is to say, of taking interest above the legal interest, is an error of the political sanction. (23) Heresy and magic are errors of the religious sanction. Certain sympathies and antipathies are errors of the natural sanction. The first germ of the malady is in some one of these four sanctions, from which it is often communicated to all the rest. It

place that children shall inherit of their fathers the evil with the good; their wealth and their poverty, their good as well as their bad character, their health and their diseases. Nor would it appear so certainly and so indisputably unjust, if we were to consider that with all the sanctions that do exist, men still persevere in degrading themselves; and that, as all men care more or less for their posterity, it would be taking away from that which is already inefficient, if we were *always* to treat the children of a bad man as we do those of a good man. The fathers ate sour grapes and the children's teeth were set on edge, does not appear to me either so unjust or so impolitic; nor would I say that punishing the children for the fault of the father, as the father is punished for the fault of the child in many cases, would be unrighteous. Why not make one a hostage for the other? Why not regard every child as in some degree what he is—a pledge for the good behaviour of the father? N.

And here I may be allowed to add the hasty note of a friend, who saw this proof.

NOTE.—I must say that I cannot agree with you here, and that the subject is of great importance. In the first place,—A man may be deficient in judgment, and innocently commit an act that may bring disgrace upon his family and his immediate posterity. He may be wicked, and indifferent to the fate of his children. He may have clear perceptions of right and wrong, yet afflicted with evil propensities that he cannot control, even when persuaded that his innocent offspring may suffer for his weakness. Now, shall an unborn generation that can have no possible influence upon the circumstances that attend its own entrance upon this scene of existence, be subject to a penalty for the offence of a race that has gone before? when if the punishment have any effect upon the mind of the victim other than gratuitous suffering for the time, it must be discouragement, perhaps despair. And examine the consequences,—vengeance must continue to fall upon succeeding, and as it relates to the crimes of their progenitors, innocent generations, to the end of time.

I am in a great hurry and therefore diffuse and inconclusive—but think once more I beg of you.

ANSWER.—If it can be shown that the parent sinned unwittingly, his offspring *do* not suffer and should not suffer, except so far as all unfortunate and therefore suspected persons do. If he sinned wilfully, and careless of all consequences to his posterity, what then? They *do* suffer, and I contend that they ought to suffer—not much to be sure—but enough to prove that honesty is the best policy, not only for ourselves but for our children; at least enough to put the public upon enquiry if nothing more. In the absence of other knowledge, would not my friend be more wary of a man whose father was a notorious thief, than of one whose father was proverbial for good faith? If he would, then we are both of a like opinion so far. The only question between us now, is about the *nature* and *extent* of the punishment—or disqualification—or doubt, call it what you please, which would rest on the offspring. N.

(23) Is it not partly religious, partly political? The Jews, and we after them, have made it altogether a religious affair: others regard it as altogether political. N.

is necessary in every case however, to find out the origin of the evil, before choosing and applying a remedy.*

* Some persons may be astonished that, in speaking of the moral sanction, nothing is said of conscience. A sufficient reason for not employing that word is in its vagueness and confusedness. In the most common sense, it expresses either the union of the four sanctions, or the pre-eminence of the religious sanction. To have but one and the same term for expressing four sorts of moral powers, each very distinct from the rest, and sometimes opposed to them, is to lead the way to interminable disputes.

In sentimental and practical morality, it is common to personify conscience: it commands, it prohibits, it rewards, it punishes, it wakes, it sleeps. In philosophical language, we are to reject these figurative expressions, and substitute proper terms, that is to say, the impression of pains and pleasures, which proceed from such or such a sanction. B.

CHAPTER VIII.

OF THE VALUE OF PLEASURES AND PAINS.

To multiply pleasures, to diminish pains—such is the whole business of the legislator. Their value should be well known therefore. Pleasures and pains are the only instruments that can be employed: Their power should be well studied, therefore.

If we examine the *value* of a pleasure considered in itself, and with relation to one single individual, we shall find it to depend on four circumstances.

1. Its *intensity*.
2. Its *duration*.
3. Its *certainty*.
4. Its *proximity*.

The value of a pain depends upon the same circumstances.

But, in fact, it is not enough to examine the value of pains, or of pleasures, as if they were isolated and independent: pains and pleasures may have consequences, which will be in their turn, pains and pleasures. If therefore, we wish to calculate the *tendency* of an act from which results an immediate pain or pleasure, we must take into view two other circumstances.

5. Its *fruitfulness*.
6. Its *purity*.

Fruitful pleasure: that which has a chance to be followed by pleasures of the same sort.

Fruitful pain: that which has a chance of being followed with pains of the same sort.

Pure pleasure: that which has no chance of producing pain.

Pure pain: that which has no chance of producing pleasure.

When the above estimation is to refer to a collection of individuals, we are to add another circumstance.

7. *Extent*: that is to say, the number of persons who are afflicted by such pain or pleasure.

Would one estimate the value of an action? He must follow in detail the operations that have just been described. They are the elements of the moral calculation, and legislation becomes a matter of arithmetic. The *evil* caused is the expense: the *good* that one produces is the profit. The rules for this calculation are the same as in every other.

It is a slow but sure way: What is called *senti-ment* is more rapid but liable to go astray. But we are not obliged to renew the whole process on every occasion: When we are familiar with it, when we have acquired the judgment which results from such familiarity with it, we compare the sum-total of good, and the sum-total of mischief, with so much promptitude as not to perceive the items of the reasoning. (24) We do the sum without knowing it. The analytical method becomes necessary whenever a new or complicated operation is to be performed, or when it is necessary to clear up a contested point, to teach or demonstrate a truth to the ignorant.

This theory of moral calculation has never been fully explained; but it has always been followed in practice; at least, wherever men have had a clear idea of their own interest. What constitutes the value of a lot of ground? Is it not the amount of pleasure to be drawn from it? And does not that value vary according to the greater or less duration that we are able to promise ourselves in the enjoyment of it?—according to the proximity or distance

(24) Just as we perceive at once that 600 is more than 500. N.

of the period, when we are to enter into the enjoyment?—according to the certainty or uncertainty of the possession?

Errors in the moral conduct of men, or in legislation, may always be referred to some circumstances which have been unknown, forgotten, or badly appreciated in the calculation of good and evil.

CHAPTER IX.

SECTION I.

OF THE CIRCUMSTANCES WHICH INFLUENCE
SENSIBILITY.

EVERY cause of pleasure does not give to every person the same pleasure: Every cause of pain does not give to every person the same pain. The *difference of sensibility* is the cause of this. That difference is in the degree or in the kind: in the degree, when the impression of one and the same cause upon many individuals is uniform but unequal: in the species, when the same cause produces in different individuals different sensations. (25)

That difference in sensibility depends upon certain circumstances, which influence the physical or moral state of individuals, and which, if they were changed, would produce an analogous change in their manner of feeling. This is proved by experience. Things do not affect us in the same way, in sickness and in health; in poverty and in prosperity; in youth and in old age. But a general view is not enough: We must enter more profoundly into the analysis of the human heart. Lyonet made a book in quarto upon the anatomy of a caterpillar: in morals there has been no such patient and philosophical investigator. I have not the courage to imitate him. I shall do enough perhaps, if I

(25) Uniforme, mais inégale, says M. Dumont—meaning, *alike in nature though not in degree*. N.

open a new prospect, and suggest a better path to such as are willing to proceed further.

1. The foundation of the whole is the *temperament* or original constitution, by which I understand the radical and primitive disposition that each has at birth, which depends upon the physical organization and the nature of the mind.*

But although that radical constitution may be the foundation of all the rest, that foundation is so concealed, that it is very difficult to penetrate to it and divide what belongs to that cause from what belongs to all the rest.

Let us leave to physiologists to distinguish these temperaments, to follow their mixture, and to trace their effects. They are a territory too little known at present, for the legislator or the moralist.

2. *Health*. We must define health negatively. It is the absence of every sensation of pain and uneasiness; the first symptoms of which may be referred to any part of the body. As to sensibility in general, we observe that the sick man is less sensible to the influence of the causes of pleasure, and more sensible to the causes of pain.

3. *Strength*. Although connected with health, strength is a circumstance apart, since a man may be weak, in proportion to the average force of men, without being sick. The degree of strength is capable of being measured with sufficient exactness by the lifting of weights and by other proofs. Weakness is sometimes a negative term, signifying the

* Although many philosophers acknowledge but one substance, and regard this division as purely nominal, they will grant us this at least—namely—that if the spirit is a part of the body, it is a part very different by nature from the others. Considerable alterations of the body strike the senses; the greatest alterations of the mind do not. From a resemblance of organization, we cannot infer intellectual resemblance. The motions of the body are regarded, it is true, as probable indications of what is passing in the soul, but they are not conclusive. How many are there who can put on all the outward show of sensibility, without feeling any thing. Cromwell, that man inaccessible to pity, shed tears at pleasure. B.

absence of strength, and sometimes a relative term, expressing that such an individual is less strong than such another to whom he is compared.

4. *Bodily imperfections.* I understand by this, some remarkable deformity, or the privation of some member, and of some faculty, which well organized men commonly enjoy. Particular effects upon sensibility depend upon the kind of imperfection. The general effect is to diminish, more or less, agreeable impressions, and to aggravate, more or less, painful impressions.

5. *The degree of intelligence.* I understand by this, the knowledge or the ideas that an individual possesses; that is to say, the knowledge or the quantity of interesting ideas, those which are of a nature to influence his happiness and that of others. The *enlightened* man is he who possesses a large share of these important ideas: the *ignorant* is he who possesses few and of little importance.

6. *Power of the intellectual faculties.* The degree of facility with which we recall acquired ideas, or acquire new ones, constitutes the measure of intelligence. Different qualities of mind are concerned in this, such as exactness of memory, power of attention, clearness of discernment, vivacity of imagination, etc.

7. *Firmness of soul.* We attribute this quality to a man when he is less affected by immediate pleasures or pains, than by great pleasures or great pains that are distant and uncertain. When Turenne, seduced by the blandishment of a woman, revealed to her a secret of state, he wanted firmness of soul. The young Lacedemonians who suffered themselves to be torn with rods at the altar of Diana, without uttering a cry, proved that the fear of shame and the hope of glory had more influence upon them, than the most acute actual pain.

3. *Perseverance.* A circumstance referring to the

time during which a given motive acts upon the will with a uniform force. We say of a man that he wants perseverance, when the motive which causes him to act, loses all its force without our being able to attribute the change to any exterior event, or to any reason which ought to weaken it; or when he is of a temper to yield one after another to a great variety of motives. It is in this way that children get angry with and weary of their toys.

9. *The tendency of the inclinations.* The idea that we form beforehand of a pleasure or of a pain, has much influence upon the manner in which we are affected, when we come to experience that pain or pleasure. The effect does not always correspond with the expectation; but in the most common cases it does. The value of possession, where a female is concerned, is not to be estimated by her beauty, but by the passion of her lover. Do we know the partialities of a man? We may calculate with a degree of certainty, the pains or the pleasures that a given event will cause him.*

10. *Notions of honour.* We call *honour* a sensibility to the pains and pleasures that are derived from the opinion of other men, that is to say, from their esteem or contempt. The ideas of honour vary much with nations and with individuals. It may be proper to ascertain, first, the power of the motive, and secondly, its direction.

11. *Notions of religion.* We know how far sensibility may be augmented or meliorated by religious ideas. It is at the birth of religion that we observe the greatest effects. The kind-hearted have become sanguinary, the pusillanimous intrepid; nations of slaves have become freed, and savages have received the yoke of civilization: nothing, in a word, has pro-

* The four following circumstances are but subdivisions of the principal one: the inclinations, the passions, considered with respect to certain determinate pleasures and pains. D.

duced such prompt and extraordinary effects upon men. As to the particular bias that religion may give to individuals, the variety is wonderful.

12. *Sentiments of sympathy.* I call sympathy that disposition, which leads us to take pleasure in the happiness of other sentient beings, and to compassionate their sufferings. If that disposition shows itself toward one single individual, we call it *friendship*; if it shows itself toward those who suffer, it receives the name of *pity* or *compassion*; if it embraces only a subordinate class of individuals, it constitutes what is called *party-spirit*—*esprit de corps*; if it embraces the whole nation, it is *public-spirit*, *patriotism*; if it extends to all mankind, it is *humanity*.

But the part of sympathy which is most conspicuous in common life, is that which fixes the affections upon assignable individuals, such as parents, children, a husband, a wife, or intimate friends. Its general effect is to increase our sensibility both to pain and to pleasure.

The meaning of the word *Me* becomes more extensive; it ceases to be solitary, it becomes collective. We enjoy a double life as it were, in ourselves and in them that we love; nor is it impossible for us to love ourselves more in others than in ourselves; to be less sensible to the events that concern us, by their immediate effect upon us, than by their impression upon those who are attached to us; to prove that the bitterest part of our affliction is the grief that it causes to those who love us, and that the greatest charm of personal success is the pleasure that their joy gives to us. Such are the phenomena of sympathy. Sentiments received and communicated are augmented by such intercommunication, as mirrors disposed in a manner to reflect the rays of light, gather them into a common focus and produce a much greater degree of heat by their recip-

rocal reflection. The power of these sympathies is one of the reasons which have caused legislators to prefer the married men to the unmarried ; and the fathers of a family to those who have no children.—The law has much more control over them than could be hoped for in a wider sphere ; for the former, besides being interested in the happiness of those who are to survive, unite the present with the future in their thoughts, while men who have not the same ties, have only a life-interest in every thing.

As to the sympathy produced by the relationship of a parent, we are to observe that it operates independently of affection. The honour acquired by the father extends itself to the son : the shame of the son is reflected upon the father. The members of a family, although disunited in interests, and in inclination, have a common sensibility to whatever concerns the honor of each.

13. *Antipathies*. Antipathies are opposed to all the enlarged and affectionate feelings of which we have just been treating. But there are natural and constant sources of sympathy : we find them every where, at all times, in all circumstances, while antipathies are but accidental, and consequently fleeting : Thus they vary according to time, place, events and persons—having nothing fixed and determined. Nevertheless these two principles correspond sometimes and mutually aid each other. Humanity may render the inhuman hateful to us : friendship engages us to hate the adversaries of our friends ; and antipathy itself becomes a source of union between two persons who have a common enemy.

14. *Madness*, or *derangement* of mind. The imperfections of the mind may be reduced to those of ignorance, weakness, irritability, and inconstancy. What we call madness is an extraordinary degree of imperfection—as striking to all the world, as the most de-

cided corporeal defect ; it produces not only all the imperfections above-named, and carries them to excess, but it gives an absurd and dangerous turn to the affections.

The sensibility of the maniac is excessive, on a certain point, while about every thing else he is indifferent : he appears to feel an excessive distrust, a dangerous malignity, and to be wholly destitute of benevolence : He has no respect for himself nor for others ;* he is not insensible to fear nor to good treatment : he is subdued by firmness, at the same time that he is soothed by mildness ; but he does not look to the future, and is operated upon only by immediate means.

15. *Pecuniary circumstances.* They are composed of the sum total of *means* compared with the sum total of *wants*.

Means comprehend. 1. Property—what one has without labor : 2. Profits resulting from labor ; pecuniary succor that one may gratuitously expect from parents or friends.

Wants depend on four circumstances. 1. Habits of expense—above those habits we find the superfluous ; below, privation : the greater part of our desires exist only by the remembrance of some anterior enjoyment. 2. Persons with whom we are charged, by the law or by public opinion, children, poor relations, and old servants. 3. Unforeseen wants : this sum may amount to more at one time than at another ; for example, if it be necessary for an important lawsuit, or a voyage on which the welfare of a family may depend. 4. The expectation of profit, of inheritance, &c. It is clear that some hopes of fortune are, in proportion to their force, actual wants, and that their loss may affect one almost as much as that

* Il brave les biens'ances et les égards. D.

of a property of which one was to have had the enjoyment.

SECTION II.

SECONDARY CIRCUMSTANCES WHICH INFLUENCE OUR SENSIBILITY.

AUTHORS who have tried to explain the difference in sensibility, have referred it to certain circumstances, of which we have not hitherto made mention; these circumstances are, sex, age, rank, education, habitual pursuits, climate, race, government, religion; all very apparent, very easy to observe, very convenient for explaining the divers phenomena of sensibility. But, after all, these are but secondary circumstances; they are not reasons of themselves; they require to be explained by primary circumstances which are found united together in them; each of these secondary circumstances contains in itself many primary circumstances. Thus, do we speak of the influence of sex upon the sensibility?—It is to recall by a single word the primary circumstances of strength, of intelligence, of firmness of soul, of perseverance, of the ideas of honour, the sentiments of sympathy, etc. Do we speak of the influence of rank? We understand by that word, a certain assemblage of primary circumstances, such as the degree of knowledge, ideas of honour, ties of family, habitual occupations, pecuniary circumstances. It is the same with all the others; each one of these secondary circumstances may be translated by a certain number of primary ones. This distinction, though essential, has never been analyzed. Let us proceed to a more detailed examination.

1. *Sex.* The sensibility of women appears to be greater than that of men; Their health is more delicate. Relatively, in strength of body, in the degree of intelligence, in the intellectual faculties, in firmness of soul, they are commonly inferior. Moral and religious sensibility is more lively with them; sympathy and antipathy have more influence over them. The honour of woman consists more in chastity and modesty; that of man more in probity and courage; the religion of the woman tends more to superstition, that is to say, toward minute observances. Her affections are stronger for her own children as long as they live, and for her children in general during their infancy. Women are more compassionate toward those whom they see suffer, and are attached to an object by the very anxieties that object may give them; but their benevolence is limited by a narrower circle, and has less to do with the principles of *utility*. It is rare for them to embrace in their affections the well-being of their country in general, yet more that of humanity; and the interest even which they feel toward a party, depends almost always on private sympathy. In all their attachments and antipathies, more caprice and imagination is found, while man has more regard to personal interest or to public utility. Their habitual occupations are more peaceable and more sedentary. The general result is, that woman is better in her family; man more suited to the affairs of state. (26) Household economy is better understood by the woman; the chief administration of affairs by the man.

(26) It is a part of the theory of Mr. Mill, author of *British-India*, and a disciple of Mr. Bentham, that the *interest of women is included in that of men*. But this is no part of the doctrine of Jeremy Bentham. He sees, and seeing, he acknowledges, that the interest of woman is *not* the same as that of man—that on the contrary, it is directly *opposed* to it in a variety of cases, and that therefore it should be protected for her, and guaranteed to her by *law*. But more of this hereafter. N.

2. *Age.* Every period of life acts differently upon sensibility: But how are we to estimate this, when the limits of different ages vary with every individual, and are even arbitrary with regard to all? What we say must be but vague and general, upon infancy, childhood, youth, maturity, decline and decrepitude, in considering them as divisions of human life. The different imperfections of the mind, of which we have spoken, are so striking in infancy, as to require a vigilant and perpetual protection. The affections of youth and childhood are prompt and lively, but little governed by the principle of prudence. The legislator is obliged to secure that age against the aberrations, which it is led into by want of experience and by the vivacity of the passions. As to old age, it is on many accounts a return of the imperfections of childhood.

3. *Rank.* This circumstance depends so much upon the political constitution of States, that it would be almost impossible to offer any proposition concerning it, which would be universally true. We might say generally that the amount of sensibility is greater in the upper than in the lower classes, and particularly with regard to notions of honour.

4. *Education.* To *physical* education we may refer health, strength and hardihood; to *intellectual* education, the quality and quantity of knowledge, and up to a certain point, the firmness of the soul and perseverance: to *moral* education the tendency of the inclinations, with ideas of honour, of religion, sentiments of sympathy, etc. We may ascribe to education in general, habitual occupations, amusements, ties, habits of expense, and pecuniary resources. But when we speak of education, we must not forget that its influence may be modified in every point of view, either by the concurrence of exterior causes or by a natural disposition, which may render it impossible to foresee the effects.

5. *Habitual occupations*—Either of profit or of amusement, and of choice. They affect all the other causes, health, strength, intelligence, inclinations, ideas of honour, sympathies, antipathies, fortune, &c. Thus we observe traits of character common to certain professions, and particularly in those that form a body by themselves, ecclesiastics, soldiers, sailors, lawyers, magistrates, etc.

6. *Climate*. For a time, too much was attributed to this cause; then it was reduced to nothing. What renders the examination difficult is, that a comparison of nation with nation cannot be made but upon great facts which may be differently understood by different people. It appears incontestible that in hot climates men are not so strong, nor so robust: (27) they have little need of work, the earth being so fruitful; they are more carried away by the pleasures of love, the passion showing itself sooner and with more ardor. Their sensibility is more active, their imagination more lively, their wit more ready, but less powerful, less persevering. Their habitual occupations partake more of indolence than of activity. They have probably at their birth a physical organization less vigorous, a temper of soul less firm and less constant.

7. *The Race*. A negro born in France or in England is a very different being, on many accounts, from a child of the English or French race. A Spanish child born in Mexico or Peru, is at the moment of his birth very different from a Mexican or Peruvian child. (28) Race may work with nature, which serves for a foundation. Afterwards it ope-

(27) Query to this. Later information goes to show that in certain very warm latitudes people are prodigiously robust, and that the country most favourable to the tiger and lion may be, and not only may be, but is favourable in the highest degree to the physical character of man. Go to the North however, and you find that extreme rigour is unfavourable to the development of bodily power in man. N.

(28) On some accounts he may be—though not in colour; perhaps not visibly in *shape*, or feature. N.

rates much more sensibly upon the moral and religious bias, upon the sympathies and antipathies of man.

8. *The Government.* This circumstance operates in the same manner as education. The magistrate may be considered as a national preceptor; and under a clear-sighted, and attentive government, the particular preceptor, the father himself, is as it were, only the deputy, the substitute for the magistrate, with this difference, that the authority of the one is limited to a certain period of age, while that of the other is for life.

The influence of this cause is immense; it extends almost every where; or rather, it embraces every thing except temperament, race and climate. Health itself may depend upon it, in some measure, on account of the police, of plenty, and of the care to remove hurtful things. The mode of directing education, of disposing of employments, of rewards, of punishments, will determine the physical and moral qualities of a people.

Under a government well-constituted, or even but well-administered, though badly constituted, we see that men are more governed by honour, and that honour is placed in actions more conformable to public utility. Religious sensibility is more exempt from fanaticism and intolerance, more free from superstition and servile respect. It forms a common tie of patriotism. Men perceive the existence of a national interest. Defeated factions have more trouble in raising their ancient war cry. The popular affections are directed rather toward the magistrate, than toward the heads of a party, and toward the whole country rather than to any thing else. Private vengeance is neither prolonged nor communicated: national taste is directed toward useful expenditures, voyages of instruction, of perfection of agriculture, toward the cultivation of the sciences

and the embellishment of the country. We perceive even in the productions of the human mind a general disposition to discuss with sobriety, questions important to public happiness.

9. *The religious profession.* We may draw from this, indications conclusive enough with regard to religious sensibility, sympathy, antipathy, and the ideas of honour and virtue. We may in certain cases even judge of the intelligence, the strength or the weakness of mind, and the inclinations of an individual, by the sect to which he belongs. I admit that it is common to profess in public, from good breeding or convenience, a religion of the truth of which one is not intimately persuaded. But its influence, though weakened, is not destroyed. The early habits, the ties of society, the power of example, continue to operate, even after the principle of the whole no longer exists. That man who, at the bottom of his heart, has ceased to be a Jew, a Quaker, an Ana-baptist, a Calvinist or Lutheran, will nevertheless be sure to retain a partiality for the people of the same denomination, and a proportionable antipathy for every other.

SECTION III.

PRACTICAL APPLICATION OF THE ABOVE THEORY.

As we cannot calculate the progress of a vessel, without knowing the circumstances which affect her swiftness, such as the strength of the wind, the resistance of the water, the cut of her hull, the weight of her cargo, etc.,—so, we cannot work with safety on the subject of legislation without considering all the circumstances which influence the sensibility.

I confine myself here to what concerns the penal code, which requires, at every step, a scrupulous attention to that diversity of circumstances.

1. *How to estimate the evil of a crime.* The same nominal offence is not the same real offence, when the sensibility of the individual injured is not the same. Any action may be a grave insult to a woman; though it would be a matter of indifference to a man. Such a corporal injury as, offered to a sick man, might endanger his life, would have no effect upon another in good health. An imputation which might destroy the fortune or character of one man, would do no injury to that of another.

2. *How to give a suitable satisfaction to the individual injured.* The same nominal satisfaction is not the same real satisfaction, where the sensibility differs essentially. A pecuniary satisfaction for an affront, may be either agreeable or offensive, according to the rank of the person, to his fortune, or to received prejudices. Am I insulted? A pardon publicly asked of me by my superior or equal, would be a complete satisfaction; (29) not so, if it were asked of me by my inferior.

3. *How to estimate the force and impression of pain upon a delinquent.* The same nominal pain (punishment) is not the same real pain, where the sensibility of the sufferers differs essentially. Punishment would not be the same to the young and to the old man, to the bachelor and the father of a family, to the artizan with no means of subsistence out of his own country, and to the rich man, whom it only causes to change the scene of pleasure. Imprison-

(29) Our author does not mean to require an acknowledgment from one party to another, much less that the party offending should be made to ask pardon of the other. But what he does require may be found in a late work of his, only a part of which has appeared. The substance of it occurs under the title of PRESENCE BANISHMENT. The offenders may be adjudged by law to keep out of the way, or not to come within a prescribed distance of the other party. In addition to this, an acknowledgment for the offending party is in some aggravated cases to be made by the judge. N.

ment would not be the same to a man and to a woman, to a person in health, and to a sick person, to a rich man whose family would not suffer by his absence, and to a man who lives by his labour and would leave his in poverty.

4. *Transplantation of a law from one country to another.* The same verbal law is not the same real law, if the sensibility of two people is not the same. A law of Europe which constitutes the happiness of families, transported to Asia, would become the scourge of society. Women in Europe are accustomed to liberty and even to domestic control: women in Asia are prepared by their education for the cloisters of a seraglio, and even for servitude. (30) Marriage in Europe and the East is not the same sort of contract: if we were to subject it every where to the same laws, we should undoubtedly produce unhappiness to all the parties interested.

The same punishment for the same offence. This adage wears an appearance of justice and impartiality which has seduced a multitude of superficial minds. To give it any reasonable meaning, we should determine beforehand what is understood by the *same* punishments and the *same* offences. An inflexible law, a law which would pay no regard either to sex or age, to fortune or rank, or education, or to the moral or religious prejudices of individuals, would be doubly vicious, either as inefficient or as tyrannical. Too severe for one; too indulgent for another; always erring by excess or deficiency—under an appearance of equality, it would conceal the most enormous inequality.

When a man of large fortune and another of a middling fortune, are condemned to the same penalty, is the punishment the same? Do they suffer the

(30) Doubts are beginning to be entertained about the treatment of Eastern wives. They are now believed to be treated with extraordinary kindness and respect. N.

same evil? Is not the manifest inequality of their treatment rendered more hateful by the pretended equality? and does not the law miss its aim, since one may forfeit the very means of existence while the other would escape in triumph? Let a young robust man and a decrepit old man be condemned to drag a weight of chains for a certain number of years, a reasoner who is accustomed to rendering the most evident truths obscure, might contend for the equality of the punishment, but the people who are not sophists, and who are faithful to nature and to feeling, would experience an inward murmur of the soul at sight of the injustice; and their indignation, shifting its object, would pass from the criminal to the judge and from the judge to the legislator.

I would not overlook certain specious objections. How is it possible to make out an account of all the circumstances which affect the sensibility? How are we to appreciate the inward and hidden disposition, such as strength of mind, the degree of intelligence, the inclinations and the sympathies? How are we to measure qualities which are so different in different beings? A father of a family may consult the inward disposition, the diversity of character, in the treatment of his children; but a public preceptor, charged with a limited number of disciples, cannot. The legislator who has a numerous people in view, is for a stronger reason obliged to confine himself to general laws, and may fear to render them too complicated by descending to particular cases. If he leaves to the judges the right of varying the application of the laws according to the infinite variety of circumstances and characters, there would be no check upon arbitrary judgments: under pretext of seizing the true intention of the legislator, the judges would make the law the instrument of gratification to their caprice or evil temper. *‘Sed aliter leges, aliter philosophi tollunt astutias; leges quatenus manu tenere*

possunt ; philosophi quatenus ratione et intelligentia.
De off. 3 17."

It is not enough to answer—we must try to clear up the point : for all this contains, not so much an objection as a difficulty. It is not the principle that is denied, it is the application which is thought impossible.

1. I grant that most of these differences in sensibility are incapable of being estimated, that it would be impossible to verify their existence in individual cases, or to measure their strength or degree ; but happily these interior and concealed dispositions have, as it were, outward and visible signs. These are the circumstances which I have called secondary : *sex, age, rank, race, climate, government, education, religious profession* ; evident and palpable circumstances, which indicate the interior disposition. Here then, the most difficult part of the legislator's duty is over. He does not inquire into metaphysical or moral qualities ; he attends only to ostensible (and tangible) properties. He orders, for example, the modification of a pain not because of the greater sensibility of the individual, or because of his perseverance, or strength of soul or intelligence, but on account of the sex or the age. It is true that presumptions drawn from these circumstances are subject to error. It may be that a child of fifteen is more enlightened than a man of thirty ; it may be that a particular woman has more courage or less modesty than a particular man : But these presumptions will be just enough, in general, to prevent the making of tyrannical laws, and above all, to conciliate the suffrages of public opinion.

2. These secondary circumstances are not only easy to seize ; they are a small number and they form general classes. We may draw from them grounds of justification, of extenuation, or of aggravation, for different offences. Thus the complication

disappears, and every thing is easily brought back to the principle of simplicity.

3. There is nothing arbitrary; it is not the judge; it is the law itself which modifies such or such a punishment according to the sex, the age, the religious profession of the offender, &c. Other circumstances are necessarily left to the examination of the judge, as the *more* or *less* derangement of mind, the *more* or *less* of strength, the *more* or *less* of fortune, the *more* or *less* of a particular parentage; the legislator who can say nothing to individual cases, directs the courts by general rules, and leaves them a certain latitude, that they may adapt their judgment to the particular nature of the circumstances.

What is recommended here is not an Utopian idea. There never was a legislator barbarous enough or stupid enough to neglect all the circumstances which affect sensibility. They have all had an idea more or less confused which has guided them in the establishment of civil and political rights; they have shown more or less regard to these circumstances in the institution of punishments; hence the difference admitted for women, children, freemen, slaves, the military, churchmen, &c.

Draco appears to be the only one who has rejected all these considerations, at least in penal matters: all crimes were alike in his view, since all were violations of the law. He condemned delinquents to death without distinction. He confounded, he overthrew all the principles of human sensibility. His horrible work did not last long. I doubt whether the laws that he made were ever administered strictly.

Without falling into that extreme, how many faults of the same sort have been made! I should never finish, if I were to cite examples. Would it be believed that there have been sovereigns, who have preferred losing provinces, and pouring out rivers of blood, to humoring a particular sensibility in a peo-

ple, or to respect an old prejudice, or a particular garb, or a certain form of prayer?

A prince of our day, active, enlightened, animated by the desire of glory, and the happiness of his people, undertook to reform every thing in the state, and raised every body against him. At the approach of death, reviewing all the disappointments of his life, he desired to have it engraved upon his tomb that he had been unfortunate in every thing he undertook. It would have been well to add, for the instruction of posterity, that he had never known how to humor the partialities, the inclinations, the sensibility of men. (31)

When the legislator studies the human heart; when he attends to the different degrees and to the different kinds of sensibility, by making exceptions, or limitations, or meliorations, this tempering of power gratifies us as a sort of paternal condescension. It is the ground-work of that approbation which we give to the law under the rather vague names of humanity, equity, propriety, moderation and wisdom.

I find here a striking analogy between the art of the legislator and that of the physician. This catalogue of circumstances which influence sensibility is alike necessary to both sciences. What distinguishes the physician from the quack is that attention to every thing which constitutes the particular state of the individual. But it is above all, in the maladies of the mind, in those where the morals are affected, where he labors to overcome hurtful habits and to form new ones, that it is necessary to study every thing that *may* influence the disposition of the patient. A single error here may change all the results and aggravate the evil by the very remedies.

(31) Joseph II.

It has been well said of Peter the Great, that he hazarded more, when he ordered the Russians to shave, than by every thing else he did in the character of an arbitrary reformer. N.

CHAPTER X.

ANALYSIS OF POLITICAL GOOD AND EVIL.—HOW
THEY ARE SPREAD IN SOCIETY.

It is with government, as with medicine. They have both but a choice of evils. Every law is an evil, for every law is an infraction of liberty: (32) And I repeat that government has but a choice of evils: In making this choice, what ought to be the object of the legislator? He ought to assure himself of two things; 1st, that in every case, the incidents which he tries to prevent are really evils; and 2ndly, that if evils, they are greater than those which he employs to prevent them.

There are then two things to be regarded; the evil of the offence and the evil of the law; the evil of the malady and the evil of the remedy.

An evil comes rarely alone. (33) A lot of evil cannot well fall upon an individual without spreading itself about him, as about a common centre. In the course of its progress we see it take different shapes: we see evil of one kind issue from evil of another kind; evil proceed from good and good from evil. All these changes, it is important to know and to distinguish; in this, in fact, consists the essence of legislation. But happily these modifications of evil

(32) For the sake of what may appear to be a strange, brilliant paradox, the author has here said what is not strictly true. Law is *not* an evil, where it promotes the greatest happiness of the greatest number. Law is not an *evil* where it abridges the liberty of doing mischief. It were but a narrow view of the subject indeed, to say that law is bad because it abridges *liberty*, unless you say *what* liberty.—By abridging the liberty of those who seek to do evil, it augments the liberty of those who do not, and the last are the majority, if you reckon the *cases* instead of the persons. N.

(33) Misfortune seldom comes alone, says the proverb. And the proverb is here shown to be philosophically true. N.

are not numerous, and the differences are strongly marked. Three principal distinctions, with two subdivisions, are enough to enable us to resolve the most difficult problems.

Evil of the first order.

Evil of the second order.

Evil of the third order.

Primitive evil.—Derivative evil.

Immediate evil.—Consequent evil.

Extensive evil.—Divisible evil.

Permanent evil.—Transient evil. (34)

These are the only new terms that we need for expressing all the variety of forms that evil may take.

Evil resulting from a bad action, may be divided into two principal kinds: 1, that which falls immediately upon such or such assignable individuals, may be called *evil of the first order*: 2, that which takes its origin in the first, and spreads itself over the entire community, or among an indefinite number of non-assignable individuals, we may call *evil of the second order*.

Evil of the first order may be divided into two branches: 1, the *primitive* evil, which is peculiar to the individual injured, or first sufferer, to him for example, who is beaten or robbed; 2. *Derivative* evil—that portion of evil which falls upon assignable individuals, in consequence of the evil suffered by the first, because of some connexion between the two, whether from personal interest or sympathy.

Evil of the second order may also be divided into two branches: 1, *Alarm*. 2, *Danger*. Alarm is a positive pain, the pain of apprehension, apprehension of suffering the same evil which has just occurred to another. Danger is the chance that the primitive evil may produce other evils of the same sort.

The two branches of evil of the second order are

(34) Observe the simplicity and comprehensiveness of this arrangement. N.

closely allied, but so unlike, nevertheless, that they may exist separately. Alarm may exist without danger; danger may exist without alarm. We may be frightened by a conspiracy purely imaginary; we may feel secure in the midst of a plot which is ready to explode; but ordinarily, alarm and danger go together as natural effects of the same cause. Evil that happens prepares the mind to expect more evils of the same sort, by rendering them probable. Evil that happens gives birth to danger: the idea of danger gives birth to alarm. A bad action leads to danger by example: it prepares the way for another bad action, 1, in suggesting the idea of perpetrating it, (35) 2, in augmenting the force of temptation.

Follow what may be supposed to pass through the mind of such or such an individual when he hears of successful robbery. He is unacquainted with this mode of subsistence, or he does not think of it: the example acts as a lesson and makes him conceive the first idea of recurring to the same expedient. He sees that the thing is possible, provided one manages well: executed by another, it will appear to him less difficult and less dangerous. It is a track which guides him in a path, he would not have dared to be the first to take. The example has another effect not less remarkable upon his mind; it is that of weakening the motives, which withhold him: the fear of the law loses a part of its force, so long as the guilty continue unpunished; the fear of shame diminishes in the same way, since he finds himself surrounded by accomplices who offer as it were en-

(35) Nothing can be truer than this. For months together in England, you may see new convictions for the *same offence*—an offence never heard of in this country—detailed, in the same paper, from two to six times a week. In the Morning Herald for 1824-5 and 6, I have met with from forty to fifty cases of assault on children of six, seven and eight, by middle-aged and robust men, or men advanced in years.—And here in this country, we have had cases in proof. The United States mail was robbed again and again a few years ago at the south, in spite of the fatal consequences to all concerned. And so with suicide, piracy and theft. N.

couraging association against the unhappiness of contempt. This is so true that wherever robberies are frequent and unpunished, they cause no more shame than any other mode of acquisition. (36) The first Greeks had no scruple on this head. The Arabs of our day glory in it. (37)

To apply this theory. You have been beaten, wounded, insulted, robbed. The mass of your personal suffering, considered in yourself alone, forms the *primitive evil*. But you have friends; sympathy causes them to participate in your pains. You have a wife, children, parents; a part of the shame with which the affront has covered you, lights upon them. You have creditors; the loss you have sustained obliges you to make them wait. All these people suffer more or less from an evil *derived* from yours; and these two lots of evil, yours and theirs, taken together, compose the *evil of the first order*.

(36) Another example may be found of the truth of all this in the fact, that for years no failure will occur in particular neighbourhoods. Men get ashamed and afraid to fail. At last however, some one, who has battled hard with adversity and suffering, stops—another follows and another,—*because they cannot help it*. Now is the time for the knave. He is not obliged to fail; but having honest men to keep him in countenance—and being withheld by neither fear nor shame now—and hoping to drive a good bargain with his creditors, he takes advantage of the time, and shuts up shop. Hence whole communities go, when there would appear to be no reason for it; and hence at the South—in Baltimore for example—there are men who make a business of failing; men who follow it as a trade. N.

(37) Wreckers follow robbery as a trade; thieves who associate together glory in their achievements. And there is a strange, every-day morality about, which would be inexplicable but for this principle of imitation. Are we not surrounded by men who, while they borrow, and keep, or *take* or steal books, papers, gloves, canes, umbrellas, penknives, &c. would never borrow and keep—nor take—nor steal any thing else of the same value? Do we not find men cheating in trade, or keeping what they have unjustly acquired, by mistake, or by finding, who would never steal money *raw*? How numerous are they that cheat with cards—or in measure, quality, &c.—or lie professionally; and who, at the same time, are altogether too honest to cheat in change, or to pass counterfeit money,—or to lie out of the usual course of business. A. is quite amazed at the villainy of B., who gives another short measure; yet A., if he finds a mistake in his own favour, is in no hurry to amend it. And B., while he expresses a becoming horror at the behaviour of A., with regard to the mistake, will borrow his neighbour's penknife, or book, or umbrella, and never think of returning it: or peradventure, if he picks up money in the highway, will never give himself much trouble to find the owner. Such is the *morality of custom*. N.

This is not all. The news of the robbery with all the circumstances (exaggerated) is repeated from mouth to mouth. The idea of danger starts up, and consequently alarm. That alarm is greater or less, according to what is told of the character of the robbers, of their cruelty, of their number, and of their means; according as we are nigh to or afar from the place of the event; as we have more or less courage and strength; as we travel alone or with a wife; as we carry with us more or less of valuables, etc. The danger and the alarm here constitute the *evil of the second order*.

If the evil which has been done you is of a nature to be propagated: for example, if somebody has defamed you by an imputation which includes a class more or less numerous of individuals, it is no longer a private evil simply, but an *extensive* evil. It is augmented in proportion to the number of those who participate in it.

If the sum which one has robbed you of, belonged not to you, but to a society, or to the state, the loss would be a *repartible* or *divisible* evil. Contrary to the preceding case, the evil here would be diminished in proportion to the number of those who participated in it.

If in consequence of a wound that you have received, you suffer some evil, altogether distinct from the first, as the loss of a lucrative business, or of marriage, or of an advantageous post, this would be a *consequent evil*.

Permanent evil is that which, once done, cannot be changed: for example, an irreparable personal injury, amputation, death, &c. *Transient* or *evanescent* evil is that which is capable of ceasing all at once, as a malady which is cured, or a loss which may be completely compensated.

These distinctions, although in part new, are any thing but useless subtleties. It is only by their means

that we are able to appreciate the difference of malignity between different crimes, and to regulate the proportion of punishment.

This analysis will furnish us with a moral criterion, or a means of decomposing human actions; as we decompose metals to know their intrinsic value and the precise quantity of alloy.

If among bad actions—or actions reputed to be so, there are any which produce no *alarm*, what a difference between such actions and those which do produce it! The subject of the primitive evil is but one individual: the derivative evil can extend itself but to a small number. But the evil of the second order may embrace the whole body of society. Let a fanatic for example, commit an assassination for heresy, the evil of the second order, the alarm above all, may be a thousand times greater than the evil of the first order.

There is a large class of offences, of which all the evil consists in the danger. I speak of those actions which, without wounding any assignable individual are hurtful to society. Let us take for example, an offence against justice. The bad conduct of a judge, of an accuser, or of a witness, leads to the escape of a guilty person. Here is an evil without doubt, for here is a danger; the danger of emboldening by impunity the delinquent himself to repeat his crime; the danger of encouraging other delinquents by the example and the success of the first. However, it is probable that this danger, great as it is, will have escaped the attention of the public; and that those who from a habit of reflection are capable of estimating the consequences, (38) will not feel any

(38) I am doubtful of the meaning here; and if the translation is proper, I should be inclined to object to the reasoning. 'Il est probable' says the author—'que ceux qui, par l'habitude de la réflexion, sont capables de le démêler, n'en concevront point d'alarme. Ils ne craignent pas de le voir se réaliser sur personne.' In particular should be added, or something else; for they who were capable of reflecting, would see the evil, and seeing it, they would fear it. N.

alarm. They do not fear to see it realized upon any body.

But the importance of these distinctions cannot be felt except in their developement. We shall hereafter attempt a particular application.

If we carry our search a little further, we shall perceive another evil which may result from a crime. When alarm arrives at a certain point—when it lasts a long time—its effect is not confined to the passive faculties of man; it spreads even to his active faculties, it extinguishes them, it throws them into a state of abasement and torpor. Hence when depredations or vexations have become habitual, the discouraged labourer works but just enough to escape starvation: The only refuge for him is idleness. Industry sinks with hope, and briars overspread the most fertile lands. This branch of the evil may be called *evil of the third order*.

Whether the evil be produced by the act of man, or by a purely physical event, all these distinctions are equally applicable.

Happily, it is not to evil alone that belongs the power of propagating and spreading itself. Good has the same prerogative. Follow analogy, and you will see proceeding from a good action a *good of the first order*, divisible also into *primitive* and *derivative*; and a *good of the second order* which produces a certain degree of confidence and security.

The *good of the third order* shows itself in that energy, that gayety of heart, that ardor of action, which are excited by remuneratory motives. Animated by this joyous temper, a man discovers in himself a strength which he had never suspected.

The propagation of good is less rapid and less obvious than that of evil. A grain of good is less productive in hope than a grain of evil in alarm. But that difference is abundantly compensated; for good is the necessary result of natural causes which

operate continually, while evil is produced but by accident and at intervals. (39)

Society is so constituted that in labouring for our own happiness, we labour for the general happiness. We cannot increase our own means of enjoyment

(39) What a grand view of the grandest object within the reach of our understanding! What we call evil is but in fact, a temporary interruption of good—a sort of *exception* to that, with which we are so familiar, as to consider it the natural course of things. Paley might have done much better with this part of his great work, if he had gone more into detail. Who would be without vision, or appetite, or sensibility? They have their peculiar pains to be sure; but when we are in health, who would forego the pleasure to escape the pain? So with every thing else. And yet there are those, who cannot or will not perceive, that even here, on this earth, we have more to enjoy than to suffer. Should their vision be checked for a day, by disease or accident, how do they pass that day? In considering with *gratitude* the nature and vastness of what they had always before enjoyed? In calling up anew the delightful sensations they have had from their youth up, from the perpetual ministering of that sense, which would be more inconceivable perhaps than any other, if we were born without eyes? No indeed—but in dwelling upon the deprivation, the suffering at the time, and the darkness of the future, with unthankful hearts. They count their loss only, without reckoning their gain. They reproach God for withdrawing a miraculous power; but they never thank him for the use of it. And so too, if they suffer bodily *pain*—it is but for a few hours in a long life; and yet they are so impatient and so unreasonable as to overlook and forget forever all their bodily *pleasures*. So with our appetites—a certain degree of hunger if satisfied, we call pleasure: if unsatisfied, pain. Yet if we happen to be hungry a little too much, or a little too long—so hungry for a single day in the course of a life, as to suffer, we are perpetually recurring to it, and complaining of it, as a tyrannical abridgment of our right to be just as hungry as may be most agreeable to ourselves: Or if we happen to have no appetite for awhile, then our remonstrances take another shape. We would rather be hungry, please God; and if we are not hungry, whose fault is it? Not ours, most assuredly; we try hard enough, and pray hard enough, and with a spirit as discontented as need be. Who would like, though he were assured of uninterrupted health, to go through life, without ever feeling drowsiness, or hunger, or thirst? And yet, what are drowsiness, hunger and thirst, but so many *pains*, the alleviation of which is *pleasure*?

So with all the enjoyments of life. We are surrounded with enjoyment. To live is to enjoy. To eat, or drink, or sleep, is to enjoy, and every body would acknowledge it, if he had not been made insensible of the truth by too long, or too uninterrupted indulgence. To breathe is to enjoy—it has grown into a proverb—the poets call it luxury. So with sky and air and earth and sea: But do we reckon these enjoyments in our thankfulness? No indeed—never. It is enough for us to complain of their cessation or interruption, though it be only for a cloudy afternoon or a head-ache. Hence the *necessity* of our suffering here—nothing else ever did, or ever could make us either grateful for what we enjoy; or even sensible of what we enjoy. How blessed is the light of day, or the breath of the fresh wind to the prisoner, or the sick? Yet neither would care for light or wind, if he were to enjoy it forever. Suffering makes us grateful: humanizes the heart: leads to sympathy, to fortitude, to affection, to love, to *virtue*—to all that makes life desirable. N.

without augmenting those of others. Two states, like two individuals, are enriched by mutual commerce, and all exchange is founded upon reciprocal advantages. (40)

Happily too, the effects of evil are not always evil. They frequently assume a different shape. Thus judicial punishments applied to offences, although they produce an evil of the first order, cease to be regarded in society as an evil, since they produce a good of the second order. They lead to alarm and danger, but for whom? For a class of malefactors who expose themselves to both; if they were quiet, they would never be troubled with alarm or danger.

We never should be able to subjugate, even partially, the great empire of evil, if we had not learnt to make use of one evil in combating others. It has been necessary to look for auxiliaries among pains to oppose other pains which crowded upon us from every side. It is thus, that in the art of curing one class of maladies, well-managed poisons have come to act as remedies.

(40) A liberal view, and one that was eloquently supported by Mr. Bentham, in a pamphlet published in 1793, and addressed to the French people, who had just made him a French citizen; but a view which cannot be maintained, if we take the language of the text in a vulgar sense. A nation, like an individual *might be enriched* by driving hard bargains—by selling dear and buying cheap; in other words, by *studying her own interest exclusively*. But if all the nations of the earth were considered as one family; and if the greatest happiness of the greatest number were the measure of wealth (as it should be), then all nations would be *enriched* by driving a fair and equal trade with one another,—by interchanging freely. N.

CHAPTER XI.

REASONS FOR DECLARING CERTAIN ACTS TO BE
OFFENCES.

WE have made the analysis of evil : that analysis proves that there are actions, from which results more evil than good : It is acts of this nature, or at least, those which have been so reputed, that legislators have prohibited. A prohibited act is what is called an offence. To make these prohibitions respected, punishments were necessary.

But is it proper to constitute certain actions offences? or in other words, is it proper to subject them to legal punishment?

What a question! Are not all men agreed upon it? Are we to try to prove an acknowledged truth, a truth so well established in the mind of man?

All men are agreed upon it. Be it so. But on what is founded that agreement? Demand of each his reasons. You will find a strange diversity of interest and principles: You will find it not only among the people, but among philosophers. Would it be time lost to look for a uniform ground of assent in a matter so essential?

The agreement which we see, is founded only on prejudices; and these prejudices vary according to times and places, according to opinions and customs. People have always said that such an action is an offence, and we therefore believe it to be an offence. Such is the guide of the multitude, and even of the legislator. But if usage has made innocent actions

crimes; if it makes venial offences appear heavy, and heavy offences light; if it has varied every where, it is clear that we must subject it to some rule, and not receive it *for* a rule. Let us appeal here to the principle of utility. It will confirm the decrees of the people wherever they are just; it will reverse them wherever they are pernicious.

I suppose myself a stranger to all the denominations of vice and virtue. I am called to consider human actions only by their good or evil effects. I begin with opening two accounts. I pass to the account of pure profit all pleasures; to that of (41) loss all the pains. I weigh the interests of all parties faithfully; the man who is branded already by prejudice for a culprit, and he who has been adjudged virtuous, are for the moment equal before me. I will even judge the prejudged, and weigh in that new balance every action, for the purpose of forming a catalogue of such as ought to be permitted, and such as ought to be forbidden.

That operation which at first appeared so complicated, will become easy by aid of the distinction that we have made between evil of the first order, of the second, and of the third.

Have I to examine an outrageous act upon the safety of an individual? I compare all the pleasure, in other words, all the profit, which could arise from such act to the author, with all the evil or all the loss which would result to the party injured. I see at once that the evil of the first order exceeds the good of the first order. But I do not stop there. The action leads to danger and alarm in society. The evil which at first was confined to but one, spreads every where now, in the shape of terror. The pleasure resulting from the action is only for one; the pain is for a thousand, for ten thousand, for all. The dis-

(41) *Pure loss?* N.

proportion already prodigious, appears to be infinite, if I pass to the evil of the third order, in considering, that if the act in question is not repressed, there will result from it universal and durable discouragement, a cessation of labour, and finally the dissolution of society.

Let us now review the strongest desires, those of which the satisfaction is accompanied with the greatest pleasure ; and we shall see that their accomplishment, when they succeed at the expense of security, is much more fruitful in evil than in good. (42)

I. We will begin with *enmity*. It is the most fruitful cause of attempts against the honour and the person. I have conceived, no matter why, enmity against you. Passion leads me astray : I insult you, I humble you, I wound you. The sight of your pain gives me at the time an emotion of pleasure. But even at the time, is it to be believed that my pleasure is equal to your pain ? If every atom of your pain could be represented in my mind, is it probable that every atom of pleasure which might correspond with it there, would be of the same intensity ? And yet, it is but a few atoms scattered by your pain which are presented to my distracted and troubled imagination : With you, nothing is lost ; with me, the greatest part is always dissipated and thrown away. But this pleasure, such as it is, is not long in revealing its natural impurity. Humanity, the principle which nothing can utterly stifle in the most atrocious minds, awakens a secret remorse in mine. Fears of every sort, the fear of vengeance, either on your part or on the part of those who are connected with you ; fear of the public voice ; religious fears, if there remains in me a spark of religion ;—all these fears come to trouble my security, and soon destroy my

(42) Observe what a beautiful system of morals we have here. Follow it out, and see to what a magnificent issue we are conducted. At some future day, I hope to give a summary view of Mr. Bentham's unpublished system of *Deontology*. I have it in MS., as I took it down from his own lips. N.

triumph. Passion is withered ; pleasure is no more ; self-reproach follows. But with you, the pain still abides, and may abide yet longer. So much for light wounds, which are scarred over by time. But how is it with cases where from the very nature of the injury, the sore is incurable ; as where a member has been struck off, or features disfigured, or faculties destroyed ? Weigh the evils—their intensity, their duration, their consequences ; measure them in every way, and see how in every thing, pleasure is inferior to pain. (43)

Let us pass to the effects of the second order. The news of your misfortune spreads far and wide the poison of terror. Every man who has an enemy, or who may have an enemy, thinks with affright of all that may inspire the passion of hatred. Among the feeble who have so many things to envy, and to dispute about, that a thousand paltry jealousies are forever throwing them together, the spirit of revenge prepares a series of interminable evils. (44)

Thus every act of cruelty produced by a passion, the principle of which is in every heart, and from which every body may suffer, may cause an alarm which will continue until the punishment of the offender has removed the danger from the side of injustice. * * * * (45) Here is a suffering common to all ; and let us not overlook another pain

(43) If you would enjoy the whole worth of this profound, clear, and satisfactory view of the case, forget what you have just read, and ask yourself how you would have proceeded to *prove* that the pain was either greater or less, I care not which, than the pleasure. If you still doubt, propose the same question to another. Select the clearest head you know : hear all that can be said on the subject, and then go back to our author. You will *then* be astonished, if you are not already.

(44) Such are, in fact, the feuds that prevail among barbarous or semi-barbarous tribes. They are bequeathed, from generation to generation, forever.

(45) The meaning of this I have not been able to make out, with any sort of satisfaction to myself. It reads thus in the original,—“*fera éprouver une alarme qui continuera jusqu’ à ce que la punition du coupable ait transporté le danger du côté de l’injustice, de l’inimitié cruelle,*” perhaps there may be an omission of a relative before *de l’inimitié*. N.

which results from it, that pain of sympathy which is felt by all generous hearts at the sight of such crimes.

II. If we examine now those acts which proceed from that imperious desire to which nature has trusted for the perpetuity of the species, and for so large a part of its happiness, we shall see that when it trespasses upon the safety of the person, or the domestic condition, the good which results from its gratification is not to be compared with the evil which flows from it.

I speak here only of the attempt which manifestly endangers the safety of the person—rape. We are not by a gross and puerile pleasantry to deny the existence of the crime, nor to diminish its horror. Whatever we may say, even those women who are the most prodigal of their favours, would not have them snatched with a brutal fury. But here the greatness of the alarm renders all discussion upon the primitive evil useless. Whatever may be the actual offence, the *possible* offence will be always an object of horror. The more common that desire which gives birth to the crime, the greater the alarm. At a period when the laws were not powerful enough to repress it, nor manners strict enough to hinder it, it led to scenes of vengeance, the traces of which may be found in every chapter of history. Whole nations took part in the quarrel; hatred was passed down from father to son. It appears that the severe confinement of the Greek women, which was unknown in the time of Homer, owed its origin to a period of trouble and revolution, when the feebleness of the law had multiplied these disorders and spread a general terror.

III. As to the motive of *cupidity*: In comparing the pleasure of acquiring by usurpation, with the pain of losing by it, the one would not be an equivalent for the other. But there are cases, in which, if it were necessary to stop with evils of the first order, the

good would possess an incontestable preponderance over the evil. In considering the offence under this point of view alone, we could not assign any good reason to justify the rigour of the law. Every thing turns upon the evil of the second order ; that is the evil which gives to the action the character of an offence ; that is the evil which makes punishment necessary. Let us take, for example, the physical desire, which has for its object the satisfying of hunger. Let an indigent man, pressed by want, steal bread from the house of a rich man, bread which perhaps may save the poor man's life. Can we put in comparison the good he does to himself, with the loss that occurs to the rich man ? We may apply the same observation to less striking cases. Let a man be a public defaulter. He enriches himself, and he impoverishes nobody. The wrong which he does to individuals, is reduced to impalpable parts. It is not then because of the evil of the first order, that it is necessary to make these actions crimes ; it is because of the evil of the second order.

If the pleasure attached to the satisfying of desires, so powerful as hatred, lust, and hunger, against the will of others interested, is so far from equalizing the evil which ensues—the disproportion will appear much greater where the motives are less active and powerful.

The desire of self-preservation is the only one which now appears to demand a separate enquiry.

Suppose it regards an evil which the law itself imposes upon an individual ; which must be for some very pressing reason, such as the necessity of causing the ordinary punishments of the courts to be executed ; punishments without which there would be no safety—no government. But suffer the desire of escaping from this pain to be satisfied, and the law finds itself so far struck with imbecility. The evil which results from that satisfaction is then that which re-

sults from the imbecility of the laws, or what amounts to the same thing, from the non-existence of law. But the evil which results from the non-existence of law is in fact the assemblage of divers evils, which the laws are established to prevent; that is to say, of all the evils that men are subject to experience on the part of men. A single triumph obtained by the individual over the laws in that way, should not be enough to fasten upon them the character of inefficiency. Nevertheless, every example of this sort is a symptom of weakness; and one step towards their destruction. There results from it an evil of the second order; an alarm more or less of danger; and if the laws connive at all at such evasion, they are in array against themselves; to avoid a small evil, they would run in the way of a greater.

Remains the case where an individual repels an evil, to which the laws have not wished to expose him. But since they do not wish him to submit to this evil, they wish him not to submit to it. To avoid such evil is for him a good. It is possible that in his efforts to preserve himself, he may cause an evil greater than would be equivalent to the good. The evil that he produces in his own defence—shall it be bounded to what is necessary for that purpose; or shall it go further? What relation bears the evil which he has done, to the evil that he has prevented? It is equal, or greater, or less? Was the evil that he has escaped capable of compensation, if instead of defending himself by such a costly method, he had submitted to it for a while. (46) These are so many questions of fact, which the law ought to take into consideration, for the purpose of settling certain details on the subject of self-defence. It is a subject which belongs to the penal code, in examining the

(46) Here we have the whole doctrine of the Friends, their non-resistance and all, reduced to a philosophical measurement. N.

means of justification, or extenuation with regard to offences. It is enough to observe here, that in all these cases, whatever may be the evil of the first order, all the evil that an individual can do in defence of himself, will produce no alarm, no danger. Unless he is attacked and his safety endangered, other men have nothing to fear from him.

CHAPTER XII.

OF THE LIMITS, WHICH SEPARATE MORALS FROM
LEGISLATION. (47)

MORALITY in general is the act of directing the actions of men, so as to produce the greatest possible amount of happiness.

Legislation ought to have precisely the same object in view.

But although these two arts, or these two sciences have the same end in view, they differ much in their extent. All actions, whether public or private, are the springs of morals. It is a guide which may conduct an individual, as it were by the hand, through all the details of life, through all the relationships of society. Legislation cannot do this, and if it could, it ought not to exercise a continual and direct interference with the conduct of men. Morality prescribes to each individual to do whatever is advantageous to himself and to the community. But as there are many acts useful to the community which the legislator ought never to command: So are there many hurtful acts, which he ought not to forbid, although morality may. Legislation in a word has much the same centre as morality, though not the same circumference.

There are two reasons for the difference: 1. Legislation cannot secretly influence the conduct of men

(47) One of the best chapters in the work. It deserves to be circulated in a pamphlet, far and wide, through our country. Our legislators are continually erring (and so indeed are the British) on the *subjects* of legislation. They attempt too much,—a certain way of doing too little. N.

but by punishment: these punishments are so many evils, which are no further justifiable, than as they produce a greater sum of good. But in many cases where we might wish to strengthen a moral precept by a penalty, the evil of the fault would be less than the evil of the penalty; the means necessary for securing the execution of the law would be of a nature to spread a degree of alarm more hurtful than the evil that we might wish to prevent.

2. Legislation is often stopped by the fear of including the innocent while striving to reach the guilty. Whence comes the danger? From the difficulty of defining the offence, of giving a clear and precise idea of it. For example, severity, ingratitude, perfidy, and other vices which the popular sanction punishes, cannot come within the supervision of the law, for we cannot give an exact definition of them, as of robbery, homicide, perjury, etc.

But the better to distinguish the true limits of morals and legislation, let us look here at the most ordinary classification of moral duties.

Private morality regulates the actions of man, both in that part of his conduct which concerns himself alone, and in that which may concern the interest of others. What interests himself composes a class of actions which are called (improperly perhaps) *duties toward one's self*; and the quality manifested by the fulfilment of these duties, receives the name of *prudence*. That part of his conduct which concerns others, forms a class of actions which are called *duties toward others*. But there are two methods of consulting the happiness of others; the one negative, in abstaining from diminishing it, the other positive, in labouring to augment it; the first constitutes *probity*, the second *benevolence*.

Morality upon these three points needs the aid of law, but not to the same degree nor in the same manner.

I. The rules of prudence will suffice almost always for themselves. If a man is wanting to himself (blind to his own interest), it is not his will which is in fault, it is his judgment. If he wrongs himself, it is only from error. The dread of self-injury is so strong a restraining motive, it would be useless to add to it the fear of an artificial pain. (48)

The contrary, some one will say, is demonstrated by facts: excesses at play, those of intemperance, the illicit commerce of the sexes accompanied so often with great danger, are enough to prove that individuals have not sufficient prudence to abstain from what is hurtful.

Confining myself to a general answer, I should say, first, that in the majority of these cases, the punishment being easily eluded, is inefficacious; and secondly, that the evil produced by the penal law would be much greater than that of the offence.

Suppose, for example, that a legislator believes himself justified in trying to extirpate by direct laws, drunkenness and fornication. It will be necessary to begin with a multitude of rules. Complication of the law—the first inconvenience, and a very serious one. The more easily these crimes are concealed, the more severe should be the penalties, for the purpose of counterbalancing, by the terror of example, the hope of impunity, which is always reviving. (49) Excessive rigour of the law—second inconvenience, not less grave. The difficulty of procuring proof would be such, that it would be necessary to encourage informers, and to keep up an army of spies. Necessity

(48) Yet the legislators of England, of other parts of Europe, and of this country, would punish the self-murderer; now by forfeiture, now by ignominious burial, now by driving a stake through the body. N.

(49) Here we have the germ of Mr. Bentham's celebrated work on REWARDS AND PUNISHMENTS,—a work which has led to a more philosophical study of the principles of penal legislation, than all that ever had been said, or done, or written before. Mr. Livingston (of Louisiana) has *built* his famous code upon it. N.

of *espionage*—third inconvenience, worse than the two first. Compare the effects in good and evil. Crimes of that nature, if one may give such a name to such follies, are productive of no alarm; (50) but the supposed remedy would fill the community with fear; innocent or guilty, every one would fear on account of himself or of others. Suspensions and informations would make all society dangerous. Every body would fly from it, and betake himself to mystery and distrust, the overthrow of confidence. Instead of having suppressed one vice, the law would have sown the seeds of newer and more dangerous ones.

It is true that example may render certain excesses contagious; and that an evil which would be almost imperceptible if it were confined to a small number of individuals, may become very obvious by its extent. All that the legislator can do, respecting offences of this sort, is to subject it to some slight punishment in cases of scandalous notoriety, that will suffice to give it a taint of illegality which would excite against it the popular sanction.

It is here that legislators in general, have legislated too much. Instead of trusting themselves to the prudence of individuals, they have treated them like children and slaves. They have yielded to the same passion as the founders of the religious orders, who, the better to show their authority, and littleness of spirit, held their subjects in the most abject dependence, and marked out for them, day by day, moment by moment, their occupations, their aliment, their time of going to bed and their time of getting up, with all the intermediate details of behaviour. There are celebrated codes, wherein we discover a multitude of shackles of that sort: such as idle restraints of marriage, punishments for celibacy, sumptuary laws fix-

(50) No *definite* alarm perhaps; for such things occur by the consent of parties. But is there no vague alarm for the virtuous? for parents, and for guardians? N.

ing the fashion of habits, the expense of entertainments, the furniture of a house, the ornaments of women; there are infinite details upon food which is prohibited or forbidden, ablutions of such or such a nature, purifications of health or of property, and a thousand other puerilities which add to all the inconvenience of a useless restraint, that of brutifying a people, by covering these absurdities with a veil of mystery.

Yet more unhappy are the states where it has been sought to produce uniformity of religious opinion, by penal laws. The choice of a religion is a matter of individual prudence. If men are persuaded that their eternal happiness depends upon a certain worship or a certain faith, what can the legislator oppose to such an interest? I need not insist upon this truth: it is now generally acknowledged; but in tracing the boundaries of legislation, I could not overlook those, which it is most important never to pass.

General Rule. Leave to individuals the greatest possible latitude, in every case where they can only injure themselves, (51) for they are the best judges of their own interests. (52) If they deceive themselves, the moment they perceive their error, it is to be presumed they will not persist. Do not suffer the power of the law to interfere, unless to prevent their injuring each other. It is there that law is necessary; it is there that the application of punishment is truly useful, since the rigour shown toward one may ensure the safety of all.

II. It is true that there is a natural connexion between prudence and probity; that is to say, that *our interest, well understood*, (53) will never leave us des

(51) Are there any such cases, properly and cautiously speaking? N.

(52) Not always; but if they are not, legislation will do more harm than good, where it abridges liberty in trifles. N.

(53) And here too, we have the whole doctrines of *utility* and *self-interest*, lying in a nut-shell. N.

titute of a motive for abstaining from injury to others.

Let us pause a moment upon this point. I say, that, independently of religion and the laws, we have always some natural motives ; that is, motives drawn from our own interest; for consulting the happiness of others. 1. The motive of pure benevolence,—a calm and sweet feeling, that we love to enjoy, and which makes one reluctant to cause suffering: 2. The motive of private affections, which exercise their power in domestic life, and within the private circle of our relationships: 3. The desire of a good reputation, and the fear of blame. This is a sort of calculation—a matter of trade; we pay, that we may have credit—we speak truth, that we may obtain confidence—we serve, that we may be served. It is in this sense that a man of wit said, *that if probity did not exist, it would be necessary to contrive it, as the means of making a fortune.*

A man enlightened upon his own interest, would not be guilty even of a concealed crime,—whether from the fear of contracting a shameful habit, which will be sure to betray him sooner or later; or because secrets concealed from penetrating eyes, leave at the bottom of the heart an inquietude which corrupts all pleasure. Whatever he might be able to acquire at the expense of security would be of no value; and if he is jealous of the esteem of men, the best guarantee of it that he can have, is his own esteem. (54)

But for an individual to perceive the whole of that connexion between the interest of others and his own, he should possess an enlightened understanding, and a heart free from the seductive passions. The greater part of mankind have not enough intelligence, nor enough strength of soul, nor enough moral sensi-

(54) Who is there to question the sublime philosophy, the profound morality of this? N.

bility, for their private worth to be of much use in aid of the law. The legislator ought to sustain the weakness of that natural interest, in adding to it an artificial interest more obvious and more constant.

Yet more. In many cases, morality derives its existence from the law,—that is to say: To decide whether an action is morally good, or bad, it is necessary to know whether it is permitted or forbidden by the law: it is the same with what concerns property. A mode of selling and acquiring, contrary to good faith in one country, may be irreproachable in another. It is the same with offences against the state. The state exists only by legislation. We cannot establish the duties of morality without knowing the institution of the legislator. For example,—there are countries where it would be a crime for a subject to enlist in the service of another; and countries where to do so, would be legitimate and honourable.*

III. As to beneficence, we are bound to distinguish. Law may extend itself far enough for general objects, such as the care of the poor, &c.; but in detail, we must refer it to private morality. Beneficence has its mysteries, and employs itself upon evils so unforeseen, or so secret, that the law cannot take notice of them. Besides it is to the free-will of the individual that beneficence owes its energy; if the same acts were to be commanded, they would be no longer benefits, they would lose their attractiveness and their essence. It is morality, and above all, it is religion which forms here the necessary aid to legislation, and the most kindly tie of humanity. (55)

* This touches upon one of the most difficult questions: if the law is not what it ought to be; if it is at open war with the principle of utility—shall it be obeyed? shall it be violated? or shall we remain neuter between the law which authorizes the evil and the morality which forbids it? The solution of this problem may be drawn from a consideration of prudence and benevolence. We are to see if there would be more evil in observing the law, than in violating it: Whether the probable evils of obedience are less than the probable evils of disobedience. B.

(55) This I take to be editorial; for it is not true of every religion. The author would speak more warily. N.

However, instead of having done too much in this way, legislators have not done enough; they should have made the refusal, or omission of an act of humanity, a crime, when it is easy to render, and when there results from the refusal any misfortune: to abandon, for example, a wounded person in a solitary road, without looking for help; not to warn a person who is handling poison; not to reach a hand to another who has fallen overboard, or into a place out of which he cannot escape without assistance. In these cases, and others of the same sort, who would complain of a punishment which was satisfied by exposing the delinquent to a certain degree of shame, or by rendering him responsible in his fortune for the evil which he might have prevented?

I may observe here, that the legislature should have gone somewhat further than it has done, relative to the interests of the inferior animals: (56)—Not that I approve the law of the Gentoos in that respect. There are good reasons for making animals serve for the nourishment of man, and for destroying those who are troublesome or noxious: We are the better for it, and they are none the worse, for they are not troubled as we are with long and bitter anticipations of the future; and the death which they receive from us, may always be less painful than that which they would receive in the inevitable course of nature.* But what can we say to justify the useless torments which they are made to suffer, by our cruel whims? Among

(56) The friends of humanity will read this with pleasure. They are beginning to perceive, and to acknowledge, that the dumb beast may be legislated for, without a derogation of dignity. And why not, if he may be tortured to death by man, without reproach to his dignity? N.

* A friend has added a note here, which is worth preserving.

This is a subject which passes in review with every humane and enlightened mind. I have quieted my conscience upon this matter without robbing my stomach, by believing that population, applying the word to man and beast, is governed entirely by the means of subsistence. Man is checked by a regard to consequences—the brute creation can be restrained only by preventing sexual intercourse, or by violent death.

all the reasons which might be given for declaring gratuitous cruelties toward them a crime, I shall confine myself to that which relates to my subject: it is a means of cultivating the general sentiment of benevolence, and of rendering men kinder, or at least of preventing that brutal depravity, which, after having amused itself with animals, may require, in its after-growth to be assuaged by human suffering.*

* See the voyage of Barrow to the Cape of Good Hope; and the cruelty of the Dutch colonists toward the inferior animals and the slaves there. B.

CHAPTER XIII. (57)

EXAMPLES OF FALSE MODES OF REASONING ON
THE SUBJECT OF LEGISLATION.

THE object of this introduction has been to give a clear idea of the *Principle of Utility*, and of the manner of reasoning conformably to that principle. There results from it a logic of legislation, which may be summed up in few words.

What is it to give a *good reason*, for a law? It is to show the good and the evil which that law tends to produce: so much good, so much argument in its favour: so much evil, so much argument against it. But we are not to forget, that good and evil are but other names for pleasure and pain.

What is it to give a *bad reason*? It is to allege for or against a law, any other thing than its effects, whether good or evil.

Nothing more simple; yet nothing more new. It is not the principle of Utility which is new; on the contrary, it is of necessity as ancient as the race of man. Whatever there is of truth in morals, whatever there is of good in law, proceeds from this principle; but it has been more often followed from instinct, even while it was attacked by reason. If, in the books of legislation, it throws up here and there a few flashes, they are soon stifled in the smoke which surrounds them. Beccaria is the only one who deserves an exception; and yet, even in his work, rea-

(57) This chapter contains the very pith and marrow of Mr. Bentham's celebrated work on FALLACIES, reviewed in the Edinburgh Review, and Westminster Review. N.

sons may be found which are drawn from false sources.

It is nearly two thousand years since Aristotle undertook to form under the name of *sophisms*, a complete catalogue of the divers modes of reasoning falsely. His catalogue, improved by the help of what so long an interval has given birth to, would have here its use and its place: but it is a work which would lead too far.* I shall confine myself to presenting some heads of error on the subject of legislation; it is a sort of map reduced from the most common false routes. The principle of Utility will be worthily illustrated by the contrast.

1. *Antiquity of the law is not reason.*

The antiquity of a law may create a prejudice in its favour; but it is not a *reason of itself*. If the law in question has contributed to public happiness, the more ancient it is, the more easy it will be to show its good effects, (58) and to prove its utility in a direct manner.

2. *Religious authority is not reason.*

This mode of reasoning has become rare in our age—but for a long while it prevailed. The work of Algernon Sydney is full of quotations from the Old Testament, and he discovered there a foundation for a system of democracy, as Bossuet did, the basis of absolute power. Sydney wished to combat the partisans of divine right and passive obedience with their own weapons.

If we suppose a law to emanate from the Divinity, we suppose it to emanate from supreme goodness and wisdom. The object of such a law, therefore, could

* See the *Traité de Sophisms Politiques*, that I have published from the MS. of Mr. Bentham, (at the end of *Tactique des Assemblées Législatives*, 1816. 2 vols. 8vo.) D.

(58) This may be doubted. A law *may* have a bad effect upon the manners, and morals, and character of people, and yet, because of its antiquity, it may not be possible to show this. We must be able, either to see, or to trace the changes that are brought about by law; or how can we *show* its effects to be good or bad? N.

only be the greatest utility : But to justify the law, it is always necessary to show that *utility*.

3. *Reproach of innovation is not reason.*

To reject all innovation is to reject all improvement : In what a condition should we be, if we had followed such a principle up to this time ? For what exists now, had its beginning ; whatever is now *establishment*, was once *innovation*. Those who approve a law to-day because of its antiquity, would have blamed it once for being new.

4. *Arbitrary definition is not reason.*

Nothing is more common among jurists and political writers, than to build up theories, and even to construct huge works upon definitions that are purely arbitrary. All the artifice consists in taking a word in a particular sense, far out of the common acceptation, and employing this word as it had never been employed before, thereby bewildering the reader with an appearance of depth and mystery.

Montesquieu himself has fallen into this vice of reasoning in the outset of his work. Wishing to define law, he proceeds from metaphor to metaphor ; he brings together objects the most unlike, the divinity, the material world, superior intelligences, beasts and men ; from which we learn that the laws are *relations* and *eternal relations*. Thus the definition is more obscure than the thing to be defined. The word law, in the proper sense, gives a tolerably clear idea to every mind—the word *relation* gives none at all. The word *law*, in the figurative sense, produces nothing but equivocal ideas, and Montesquieu, who should have dissipated these clouds, augments them.

The characteristic of a false definition is,—that it cannot be employed in a fixed manner. A little further (Ch. III.) the author defines the law differently. *Law in general*, says he, *is human reason, inasmuch as it governs all the people of the earth*. These terms are more familiar, but there does not result from them

any clearer idea. Does it not follow that all the ferocious, absurd, or contradictory laws, in a state of perpetual change, are always *human reason*? It appears to me that reason, far from being law, is often opposed to law.

This first chapter of Montesquieu has given rise to a deal of gossip. Men have exhausted their minds in trying to discover metaphysical mysteries where they are not. Beccaria himself, is carried away by that obscure idea of *relation*. To interrogate a man, whether he is guilty or innocent, is to force him, says he, to accuse himself. This procedure shocks him, and why? Because, according to him, it is to *confound all relations*. (59) What does he mean by that? To enjoy, to suffer, to give pleasure, to give pain; these are expressions that I understand the meaning of; but to follow relations, and to confound relations—that is what I do not understand at all. These abstract terms do not excite any idea in me, nor awaken any opinion. I feel an absolute indifference about *relations*; but *pleasures* and *pains*—they interest me, they are intelligible.

Rousseau was not satisfied with that definition of Montesquieu; he has given one of his own, which he puts forth as a great discovery. *Law*, says he, *is the expression of the general will*. There is then

(59) 'No man can be judged a criminal, until he be found guilty; nor can society take from him the public protection, until it have been proved that he has violated the conditions on which it was granted. What right, then, but that of power, can authorise the punishment of a citizen, so long as there remains any doubt of his guilt? The dilemma is frequent. Either he is guilty, or not guilty. If guilty, he should only suffer the punishment ordained by the laws, and torture becomes useless, as his concession is unnecessary. If he be not guilty, you torture the innocent; for, in the eye of the law, every man is innocent, whose crime has not been proved. Besides, it is *confounding all relations*, to expect that a man should be both the accuser and accused; and that pain should be the test of truth, as if truth resided in the muscles and fibres of a wretch in torture. By this method, the robust will escape, and the feeble be condemned. These are the inconveniences of this pretended test of truth, worthy only of a cannibal; and which the Romans, in many respects barbarous, and whose savage virtue has been too much admired, reserved for their slaves alone.'—BECCARIA on *Crimes*, Chap. xvi.

no law any where, about which the people in a body have not debated; there is no law but in an absolute democracy; he has abrogated by this definition, every existing law. He has struck with imbecility all those which have been made successively by all the nations of the earth, except, peradventure, those of the Republic of San Marino.

5. *Metaphor is not reason.*

I understand by this, either a metaphor, properly speaking, or an allegory, of which we make use (at first) for clearing or ornamenting a discourse, and which by little and little becomes the foundation of an argument.

Blackstone, (60) so great an enemy to all reform, as to blame the introduction of the English language into the reports of the law, has neglected nothing to inspire the same prejudice in his readers. He represents the law as a castle, as a fortress, which cannot be attacked without weakening it. He does not give the metaphor, I acknowledge, for a reason; but why employ it at all? To lead the imagination astray; to prejudice the reader against all ideas of reform; to give him a mechanical fear of innovation in the law, he infuses into the mind a false idea which produces the same effect as a false reason. He should have seen that his allegory might be turned against himself. After he has made the law a castle, is it not natural for ruined suitors to represent it as crowded with harpies. (61)

The house of a man, say the English, is his castle. A poetical expression is not a reason; for if the house of a man is his castle by night, why is it not by day? If it is an inviolable asylum for the proprietor, why should it *not* be for every other person whom he may think proper to receive? The current of justice is

(60) 3 Com. Ch. XVII.

(61) And why may not a castle be repaired, if unsuitable to the age, or unsafe? N.

sometimes checked in England by this puerile notion of liberty. It would appear that criminals ought to have their holes, like the foxes, for the pleasure of hunters. (62)

A church in catholic countries, is the *House of God*. That metaphor has led to its being made an asylum for criminals. To tear away by force, those who have fled for refuge to his House, were to fail in respect for God.

The *balance of trade* has produced a multitude of arguments founded upon this metaphor. People have imagined that they saw nations rise and fall in their mutual commerce, like the basins of a scale charged with unequal weights. They are disquieted with whatever appears to be a fault in the equilibrium. They imagine that one must lose and the other gain, as if something had been taken from one scale, and put into the other.

The phrase *mother-country* has given birth to a number of prejudices and false arguments in all the questions concerning colonies and the metropolis. Duties are imposed upon the colonies; and they are charged with crimes founded also upon the metaphor concerning their filial dependence.

6. *Fiction is not reason.*

I understand by fiction, a fact notoriously false, upon which people reason as if it were true.

The celebrated Cocceiji, compiler of the *Code Frederic*, furnishes an example of this mode of reasoning, on the subject of wills. After a deal of talk about natural right, he approves of the law of leaving to individuals the power of bequest. And why? *It is because the heir and the defunct are but one and the same person; and consequently the heir ought to continue to enjoy the defunct's property.* (Cod. Fred. part II. l. 110, p. 156.) It is true that he gives elsewhere some

(62) It gives them another chance for another day of sport. N.

arguments which have to do with the principle of Utility ; but this is in the preface, where he only gives a prelude. The serious reason, the judicial reason, is the identity of the living with the dead.

The English jurists, to justify in certain cases, the confiscation of goods, have hit upon a reason sufficiently like that of the chancellor of the great Frederick. They have imagined a *corruption of blood*, which stops the course of legal succession ; a man is punished with death for the crime of high treason ; the innocent son is not only deprived of the estate of his father, but he cannot even inherit from his grandfather, because the channel through which the estate ought to pass, has been sullied. This fiction of original political sin, serves as a foundation for this point of right. But why stop there ? If there is a corruption of blood, why not destroy the vile refuse of a criminal stock ?

In the seventh chapter of the first book, Blackstone, in speaking of the royal authority, has abandoned himself to all the puerility of fiction. The king has his attributes, he is present every where, he can do no wrong, he is immortal.

These ridiculous paradoxes, the fruit of servility, so far from giving just ideas upon the prerogatives of royalty, only serve to dazzle and mislead, to give to reality itself an air of fable and prodigy. They are not mere flourishes, they are the foundation of many theories. They are made use of to explain royal prerogatives, which might be justified by very good reasons, without perceiving that the best cause is injured, by seeking to sustain it with futile arguments. The judges, says he again, *are the mirrors in which the image of that king is reflected*. How puerile ! Is it not to expose to ridicule the very object upon which he proposes to throw splendour ?

But there are bolder and more important fictions, which have played a grand part in politics, and which

have produced celebrated works: they are the *contracts*.

The *Leviathan* of Hobbes, a work little known, and detested by the prejudiced now, as the code of despotism, made the whole body of political society depend upon an imaginary contract between the people and the sovereign. The people, by this contract, have renounced their natural liberty, which was productive only of evil, and deposited all power in the hands of the prince. All these contrary wills have come to reunite themselves in his, or rather to be swallowed up in his. What *he* wills is reckoned the will of all his subjects. When David put Uriah to death, he acted in that by the consent of Uriah. Uriah had agreed to all that David could do to him. The prince, by this system, may sin against God, but he cannot sin against man, because all that he does, proceeds from the general consent. We cannot have the idea of resisting him, because it implies the contradiction of resisting ourselves!

Locke, whose name is as dear, as that of Hobbes is odious to the partizans of liberty, has also laid the foundations of government in contract. He maintains that there exists a contract between the prince and the people; that the prince undertakes to govern according to the laws for the general good, and that the people, on their side, undertake to obey, so long as the prince remains faithful to the conditions, by virtue of which he has received the crown.

Rousseau rejects with indignation the idea of this two-sided contract between the prince and the people. But he has imagined a *social contract*, whereby all engage with all, which is the only legitimate base of governments. Society only exists by the free agreement of all the members.

In all this, what there is common to the three systems, otherwise so opposite, is, that of beginning all political theory by a fiction; for these three contracts

are all equally fictitious. They exist only in the imagination of their authors. Not only do we find no trace of them in history—but history furnishes every where, proof to the contrary.

That of Hobbes is a manifest lie. Despotism has been every where the effect of violence, and of false religious ideas. If there exists a people who have placed the supreme authority, by a public act, in the hands of their chief, it is not true that this people have agreed to all the cruelties and caprices of the sovereign. The singular act of the Danish people, in 1660, contains essential clauses, which limit the supreme power.

The *social contract* of Rousseau, has not been so severely judged, since men are not difficult upon the logic of a system, which establishes all that they most love, liberty and equality. But where was that universal convention held? What are its clauses? In what language is it preserved? Why has it always been unknown? Was it in escaping from the wilderness, in giving up a savage life, that they have had these grand ideas of morals and politics, upon which this primitive convention was built?

The contract of Locke is more specious, since, in fact, there are monarchies, in which the sovereign does undertake to do certain things on coming to the throne, and agrees to certain conditions on the part of the nation which he is going to rule over.

The contract, however, is still a fiction. The essence of a contract is in the free consent of the parties interested. It supposes that all the objects of the engagement are specific and known: But if the prince, on coming to the throne, is free to accept or refuse; are the people equally so? Are a few vague acclamations, an act both of individual and universal consent? Can this contract be binding on that multitude of individuals who never heard of it; who have not been called to sanction it; and who would

not have been able to refuse their consent, without exposing their fortune and life? Besides, in most monarchies, this imaginary contract has not even that feeble appearance of reality; not the shadow of an engagement between the sovereign and the people can be perceived.

We are not to make the happiness of the human race dependent upon a fiction. We are not to erect the social pyramid upon foundations of sand, or upon a clay that crumbles. Let us leave these toys to children; men ought to speak the language of truth and reason.

The true political tie is in the immense interest of man to maintain a government. Without government, is no safety, no family, no property, no industry. It is there that we are to seek the basis and the reason for all governments, whatever may be their origin or their form: it is in comparing them with their object, that we are enabled to reason solidly upon their rights and obligations, without having recourse to imaginary contracts, which can only serve to give birth to interminable disputes.

7. *A fantastical reason is no reason.*

Nothing is more common than to say, *reason wills; eternal reason prescribes*, etc. But what is that reason? If it is a distinct view of good and evil, it is a fantasy, a despotism, which shows only the inward persuasion of the speaker.

Let us examine the foundation upon which a celebrated jurist has sought to establish the paternal authority. A man of good common-sense would see no difficulty in the question, but a learned man ought to find mystery every where.

‘The right of the father over his children,’ says Cocceji, ‘is founded upon reason. 1. Children are procreated in the house of which the father is the master. 2. They are born in a family of which he is the head. 3. They are of his seed, and a part of

his body.' These are the reasons from which he concludes, among other things, that a man of forty years, who wishes to marry, ought to abide the consent of an old man in his dotage. What there is in common through all these reasons, is, that no one of them has any reference to the interest of the parties; the author consults neither the advantage of the father, nor that of the children.

The right of a father is, from the first, an expression wanting propriety: it is not an unlimited right, an indivisible right; there are many sorts of *rights* that may be yielded or refused to a father, each for particular reasons. (63)

The first reason that he alleges is founded upon a fact which (when true) is only true by accident. Let a traveller have children which are born in a lodging-house, in a vessel, in the house of a friend,—behold then the first foundation for parental authority swept away. The children of a servant, those of a soldier, should not be subjected to their father, but to him in whose house they are born.

The second reason has no determinate meaning; or at best, is but a repetition of the first. The child of a man who dwells in the house of his father, of his elder brother, or of his patron, is *he* born in a family of which his father is the head?

The third reason is as feeble as indecent. 'The child is born from the seed of the father, and makes a part of his body.' If this is the principle of a right, we must agree that it ought to place the power of the mother much above that of the father.

Let us remark here an essential difference between the false principles and the true. The principle of Utility, applying itself only to the interest of the parties, yields to circumstances, and accommodates itself

(63) Not clearly expressed. Perfect or imperfect rights, with their correspondent perfect and imperfect obligations, are nevertheless not of a kind that may be *yielded or refused* at pleasure. N.

to every want. False principles, being founded upon what is foreign to the interest of individuals, would be inflexible, if they were followed up. Such is the character of this imaginary right founded upon birth. The son belongs naturally to the father, because the matter of which the son is formed has circulated formerly in the blood of the father; let him make him unhappy, it matters not; his right cannot be destroyed, since you cannot make his son cease to be his son. The corn with which your body is fed, grew in my field; can it be that you are not therefore my slave?

8. *Antipathy and sympathy are not reason.*

It is chiefly in what concerns the penal law, that people go astray by antipathy: Antipathies against actions reputed offences; antipathies against individuals reputed delinquents; antipathies against the ministers of justice; antipathies against such or such a pain. This false principle has reigned like a tyrant in this vast province of the law: Beccaria was the first to dare to attack it in front, with arms of unequalled temper; but if he did much to destroy the usurper, he did too little toward finding a substitute.

It is the principle of antipathy which leads us to speak of a crime as *deserving* a punishment; it is the correspondent principle of sympathy which leads us to speak of an action as *meriting* a reward: The word *merit* can only lead to passions and to errors. We ought only to look at the good and bad effects.

But when I say that *antipathies and sympathies are not reason*, I understand those of the legislator, for the antipathies and sympathies of the people may be a reason, and a very powerful reason. No matter how absurd or pernicious, the religion, or law, or customs of a people—it is enough if they are attached to them. The force of their prejudices, is the measure of management required. To take away an enjoyment, a hope, however chimerical it may be, is to

do the same injury as if we were to take away a real enjoyment or a justifiable hope. The pain of a single individual, becomes, by sympathy, the pain of all. From this, results a crowd of evils; antipathy against the law, which offends the general prejudice; antipathy against the body of laws of which it makes a part; antipathy against the government which causes them to be executed. A disposition not to contribute to their execution; a disposition to oppose their execution clandestinely; a disposition to take the government out of the power of those who stiffen themselves against the popular will. Evils which drag after them the crimes, the whole of which form that terrible compound which is called *rebellion, civil-war*; evils which lead to the pains to which recourse is had for checking them. Such is the chain of gloomy consequences always ready to proceed from an absurd fantasy. The legislator must yield, therefore, to the violence of a current, which carries away whatever opposes it. Let us not forget to observe here, however, that these fantasies are not to be the determining reason of the legislator—they are the evils with which he is menaced, if they are attacked.

But ought the legislator to be a slave to the whims of those that he rules over? No. Between imprudent opposition and servile condescension, there is a safe and honourable middle-way; it is to attack these whims with the only arms which can prevail, example and instruction: he must explain: he must address himself to the public reason, he must allow time for the unmasking of error. True reasons clearly exposed, will be necessarily stronger than the false. But the legislator is to go cautiously to work; he need not come into immediate and forcible collision with the public ignorance. Indirect means may answer his purpose better.

However, too much deference for prejudices is a

more common defect than the contrary excess. The best projects for the improvement of law are cast away on that common objection. 'Prejudice is opposed to it—We shall offend the people.' But how know we this? How have we consulted the public opinion? What is its organ? Have the whole people but one uniform way of thinking? Are all individuals of the same opinion—including the nineteenth-twentieths who never heard the subject spoken of? Besides, if the multitude are deceived, are they obliged to remain always in error? Will not the illusions that people the darkness disappear in the broad light of day? Would you have the people understand the truth before it is known, even to the philosophers and sages of the earth? Have we not the example of other nations, that have emerged from the same ignorance, where the same obstacles have been overcome?

After all, the popular prejudices serve less frequently for motives than for pretexts. It is a convenient passport for the follies of statesmen. The ignorance of the people is the favourite argument of the pusillanimity and idleness of their rulers; while their true motives are the prejudices from which they themselves have not been able to get free. The name of the people is a signature, counterfeited for the justification of their leaders.

9. *Begging the question is not reason.*

Begging the question is one of the sophisms mentioned by Aristotle; but it is a Proteus, which is forever changing its shape, and renewing its purpose.

Begging the question, or rather assuming the question, consists in making use of the very proposition in dispute, as if it were already proved.

This false mode of reasoning insinuates itself into morals and legislation, under the protection of the terms *sentimental* or *impassioned*.

Sentimental or *impassioned* terms, are those which,

beside their principal meaning, have another accessory meaning of praise or blame. *Neuter* terms are those which express only the thing in question, without leading one to presume either good or evil; without carrying any foreign idea of blame or approbation. (64)

But, we are to observe that an impassioned term includes or envelopes a proposition not expressed, but understood, which always accompanies the employment of the word, to the understanding of those who employ it: this proposition understood, is either of blame or praise; but vague and indeterminate.

Need I connect the idea of utility with a term which carries generally an accessory idea of blame? I should appear to advance a paradox, and to contradict myself.

Were I to say, for example, that such an object of *luxury* is good? The proposition would astonish those who are accustomed to attach a sentiment of disapprobation to this word.

How am I to examine this particular point, without waking the dangerous association? I must have recourse to a neuter word. I may say, for example,—*Such a mode of spending one's revenue*, is good. This term provokes no prejudices, and permits the impartial examination of the object in question.

When Helvetius declared that all our actions proceeded from the motive of *interest*, every body rose up against him, without even wishing to understand him. And why? It is because the word *interest* had an evil meaning, a vulgar acceptance, by which it appeared to exclude all motives of pure attachment and benevolence.

How many doctrines in political matters are founded on impassioned terms!

(64) Elsewhere the author distinguishes the terms that are unfavourable, by reason of the collateral sentiment they convey, as *dislogistic*, in opposition to those that are *eulogistic*. N.

One man believes that he has given a reason in favour of a law, by saying that it is conformable to the *principles* of a monarchy or a democracy; but that signifies nothing. If there are persons, with whom these words are connected with accessory ideas of approbation, there are others who attach contrary ideas to them. Let the parties put themselves in battle-array; the dispute would only end with the exhaustion of the combatants; for to begin a true examination, we must give up these impassioned terms, and calculate the effects of the law in question, whether good or evil.

Blackstone admires the combination of the three forms of government in the British constitution, and he concludes that it ought to possess all the *good* qualities united, of monarchy, of aristocracy, and of democracy. Why did he not perceive that without changing his argument, one might draw from it a conclusion diametrically opposite, and altogether as fair: namely, that the British constitution ought to unite all the peculiar vices of democracy, of aristocracy, and of monarchy? (65)

The word *independence* is united with certain accessory ideas of dignity and virtue: the word *dependence*, is united to accessory ideas of inferiority and corruption. Wherefore, the panegyrists of the British constitution admire the *independence* of the powers which compose the legislative power: it is to their view the master-piece of political contrivance and sagacity; the most beautiful feature of government. On the other side, the detractors of that very constitution do not fail to insist upon the *dependence* of each upon every other of these three powers. Neither in the eulogy, nor in the censure, do we find a reason.

(65) One of the first, and certainly the ablest adversary, that Blackstone ever had, was our author, while yet a youth. His work entitled a FRAGMENT ON GOVERNMENT, was immediately attributed, by such men as Lord Mansfield, to the first writers and reasoners of the day. See p. 27. N.

If we consider the matter, we find there is no real independence. Have not the king and the majority of the lords a direct influence on the election of the house of commons? Has not the king the power of proroguing parliament at any moment; and is not this power very efficacious? Does not the king exercise a direct influence upon the honourable and lucrative employments, which he may give and take away at his pleasure? (66) On the other side, is not the king in a state of dependence upon the two houses of parliament, and more particularly upon the commons, since he cannot maintain himself without money and without an army, and these two principal objects are absolutely in the hands of the deputies of the nation? Is the chamber of peers independent, so long as the king may add to their number at pleasure, and turn the suffrages in his favour by the accession of new lords, and exercise further influence by the prospect of rank and of advancement for the body of the peerage, and by ecclesiastical promotion for the bench of bishops?

Instead of reasoning upon a deceitful word, let us consider the effects. It is the reciprocal dependence of these three powers which produces their harmony, subjects them to fixed rules, and gives them a systematic and sustained march. Hence the necessity of respecting, of observing, of honouring, and of conciliating each other. If they were absolutely independent, there would be continual shocks among them. It would often be necessary to appeal to force; and they might as well return at once to pure democracy, that is to say, anarchy.

I cannot forbear giving two more examples of that error of reasoning, founded upon abusive terms.

If we erect a political theory upon the ground of *national representation*, in attaching ourselves to what-

(66) Blackstone calls him the fountain of honour. He might have added—which ebbs and flows with the changes of the moon. N.

ever appears a natural consequence of that abstract idea, we soon begin to contend for *universal suffrage*, and from consequence to consequence, we proceed at last to show that the representatives ought to be renewed as often as possible, to the end that the national representation may deserve the name.

If we submit this question to the principle of UTILITY, we do not reason upon the *word*; we look only to the effect. When it concerns the election of a legislative assembly, we ought to give the right of voting only to such as are supposed to have the confidence of the people for exercising it.

The choice made by men who have not the confidence of the people, would weaken their confidence in the legislative assembly.

The men who have not the confidence of the people, are those in whom political integrity, and a proper degree of necessary knowledge, cannot be presumed.

Political integrity cannot be presumed in those whom want may expose to the temptation of selling it, in those who have no fixed place of habitation, nor in those who have been scourged by justice for certain offences determined by the law.

The necessary degree of knowledge cannot be presumed in women, who, by their domestic duties, are led away from the consideration of national affairs; in children, and in adults below a certain age; nor in those, who by their poverty are deprived of the first elements of education. (67)

It is upon these principles, and upon others like them, that we are to establish the necessary qualifications of a voter; and it is also from a consideration

(67) Cannot be *presumed*, to be sure; but may be *proved*. And elsewhere, the author himself goes far toward proving the propriety of a change, where he acknowledges that women, instead of being represented by men, because their *interests are the same*, are not represented at all, because, in fact, their interests are *not* the same, but on the contrary, *opposed* to each other. Mr. Bentham is *now* an advocate for *universal suffrage*. N.

of the advantages and the disadvantages of change, that we are to reason respecting the duration of the legislative assembly, without entering into any considerations drawn from an abstract term.

The last example that I have to adduce, is taken from *contracts*; or rather from the different political fictions, imagined under the name of *contracts*. I have already condemned them as *fictions*. (68) I now condemn them as begging the question.

When Locke or Rousseau reasons upon this imaginary contract; when they affirm that the social or political contract includes such or such a clause, could they prove it otherwise than by the general advantage supposed to result from it? Let us grant to them, if they will, that this contract, which was never put into shape, is actually in existence. On what does its value depend? Is it not upon its utility? Why are its engagements to be kept? Because good faith in promises, is the very foundation of society. It is for the advantage of all, that the promises of each individual should be sacred. There would be no safety among men, no commerce, no confidence. We might go back to the woods again with our enquiry, if engagements had no binding virtue. It would be the same with political contracts. It is their *utility* which constitutes their strength; if they grow hurtful, they have no strength. If the law had undertaken to make the people unhappy, would the engagement be valid? If the people were bound to obey at all events, would they be bound to suffer themselves to be destroyed by a Nero or a Caligula, rather than to violate their promise? If there should result from the contract, effects universally hurtful, would there be any sufficient reason for maintaining it? Nobody can deny, therefore, that the validity of the contract is at the bottom dependent

(68) The word *fictions* here, is what the author himself would denounce as *dislogistic*. How hard to avoid this fault! N.

upon the question of Utility, a little wrapped up, a little disguised, and consequently rather susceptible of false interpretation.

10. *Imaginary law is not reason.*

Natural law, natural right ; two sorts of fiction or metaphor, which play so great a part, nevertheless, in the works of legislation, as to deserve a particular notice.

The primitive sense of the word *law*, is the vulgar sense—it is the will of the legislator. The *Law of Nature* is a figurative expression. Nature is represented as a being ; such and such a disposition is attributed to her, which is called, figuratively, *law*. In this sense, all the general inclinations of men, all those which appear to exist independently of human society, and which ought to have preceded the establishment of political and civil laws, are called *laws of nature*. Such is the true sense of the words.

But people do not so understand it. Authors have taken the words as if they had a peculiar sense—as if there was a code of natural laws. They appeal to these laws, they cite them ; they oppose them literally to the laws of the legislator, and they do not perceive that these natural laws are laws of their own invention ; that they all contradict themselves upon this imaginary code ; that they are obliged to affirm without proof ; that there are as many systems as writers ; and that in reasoning in that manner, they are always obliged to begin anew, because upon imaginary laws every one may say what he pleases, and disputes are interminable.

What there is natural in man, are the sentiments of pain and pleasure—inclinations ; but to call these sentiments, and these inclinations *laws*, would be to introduce a false and dangerous idea ; to put language in opposition with itself ; since it is necessary to make *laws* for the very purpose of controlling these inclinations. Instead of regarding *them* as laws, we are

obliged to *subject* them to laws. It is against the strongest natural inclinations, that the most rigorously repressing laws are to be made. If there was a law of nature which directed all men toward their common good, laws would be of no use. It would be to employ a reed to support an oak ; it would be to hold up a torch to the noon-day sun.

Blackstone, while speaking of the obligation of parents to provide for their offspring, says, 'It is a principle of the *natural* law, a duty imposed by nature herself, and by their own act in bringing them into the world ; and Montesquieu, adds he, observes with reason, that the natural obligation of the father to provide for his children, is that which has given rise to marriage, which determines who it is that ought to fulfil that obligation.' (Lib. I., ch. 16.) (69)

Parents are *disposed* to bring up their children ; parents *ought* to bring up their children : these are two different propositions. The first does not suppose the second ; the second does not suppose the first. There are undoubtedly very strong reasons for imposing upon parents the obligation of providing for their children. Why are they not given by Blackstone and Montesquieu ? Why do they refer to what they call *the law of nature* ? What is that law of nature which needs the secondary law of another legislator ? If that natural obligation existed, as Montesquieu says, far from being the ground of marriage, it would prove the inutility of it : at least for the end assigned by him : one of the objects of marriage is to supply the insufficiency of natural affection. It is intended to convert into an obligation, that inclination of the parents which would not always be sufficiently strong to overcome the trouble and embarrassment of education.

(69) Blackstone is never touched by our author, but with a dissecting knife, which goes to the nerves and marrow of the judge. N

Men are much disposed to provide for themselves : there is no occasion for a law to oblige them to do this. If the disposition of parents to provide for their children was universally and constantly as strong, it would never have come into the thought of lawgivers to make an obligation of it.

The exposure of infants, so common once among the Greeks, is yet more so now in China. To overawe that practice, are we to allege no other reasons than that imaginary law of nature which is clearly inefficient ?

The word *right*, like the word *law*, has two meanings ; a proper meaning, and a metaphorical one. *Right*, properly speaking, is the creature of *law*, properly speaking : real laws give birth to real rights. The natural right is the creature of natural law ; it is a metaphor, which owes its existence to another metaphor.

What there is natural in man, are his means and faculties ; but to call these means, these faculties, *natural rights*, is again to put language in opposition to itself ; for *rights* are established to assure the exercise of means and faculties. The right is the guarantee ; the faculty is the thing guaranteed. How are we to understand a language that confounds under a common term, two things so distinct ? Where would be the nomenclature of the arts, if we gave to the trade or the tools, the same name that we give to the work ?

Real right is always employed in a legal sense ; natural right is often employed in an anti-legal sense. When we say, for example, that *the law cannot offend against natural right*, we employ the word *right* in a sense superior to the law, we recognise a right which defeats the law, which reverses and annuls it.

In the anti-legal sense, the word *right* is the greatest enemy of reason, and the most terrible destroyer of governments.

We cannot reason with fanatics armed with *natural right*, which every one understands just as he likes—applies as it may suit him; of which he can yield up no part, retrench no part; which is inflexible at the same time that it is unintelligible; which is consecrated to his eyes as a dogma, and from which we cannot depart without crime. Instead of examining the laws by their effects; instead of adjudging them as good or bad, they consider them with relation to this pretended *natural right*—that is to say, they substitute for the reasoning of experience, the chimeras of their imagination.

There is no innocent error; we slide from speculation into practice. ‘We *must* obey the laws that are agreeable to nature. Others are null, because of their disagreement with nature: and instead of obeying them, we are bound to resist them. From the moment natural rights are attacked, every virtuous citizen ought to be ardent in their defence. These self-evident rights need not be proved; it is enough to declare them. How are we to prove them? To doubt, implies a deficiency of common-sense, or of common honesty!’

But that I may not be charged with preaching seditious maxims gratuitously, to these inspired politicians, I will cite a positive passage from Blackstone; and I prefer Blackstone, because, of all writers, he is the one who has betrayed the most profound respect for the authority of governments. (1 Com., p. 42.) In speaking of the imaginary laws of nature, and of the laws of revelation—‘We ought not to suffer,’ says he, ‘that human laws should contradict those

(of nature): if a human law ordains a thing forbidden by the natural or divine law, we are bound to transgress the human law.'

Is not this enough to arm all fanatics against all governments? Among the immense variety of ideas upon the natural law, and the divine law, will not each one find some reason for resisting all human law? Is there a single state, which would be able to maintain itself a single day, if every one supposed himself conscientiously required to resist the law? save where they were conformable to his particular ideas upon the natural and the revealed law.—What a horrible cut-throat among all the interpreters of the code of nature, and of all religious sects?

'The pursuit of happiness is a natural right.' (70) The pursuit of happiness is certainly a natural *inclination*; but can we call it a natural right? That depends upon the mode of pursuit. The assassin pursues his happiness by assassination. Has he the right to do so? If he has not, why declare it? What tendency in that declaration is there, to make men happier or wiser?

Turgot was a great man: but he had adopted the common opinion without examination. Unalienable and natural rights were the despotism and the dogmatism which he desired to exercise without having it seen. If he saw no reason for doubting a proposition; if he thought it a self-evident truth, he referred it, without going further, to natural right, to eternal jus-

(70) Here we have a sly allusion to our celebrated Declaration of Independence; a paper which our author examined once paragraph by paragraph, with an acuteness and vigour, which were never exceeded. Take one example—We declare that certain *rights* (!) are *inalienable*, among which (*rights* !) are life, liberty, and the pursuit of happiness! But if they are inalienable, how comes it that our legislators may deprive us of them? How can they exercise the right of confining us—of hindering our pursuit of happiness, of taking away our property, or of putting us to death, unless we give it to them? And how can we give them a right, which we ourselves have not? In other words, how are we to *alienate* what is *inalienable*? N.

tice. He made use of it then as an article of faith, which it was no longer lawful to examine.

Utility having been often misapplied, when understood in a restricted sense; having lent her name to crimes, had appeared contrary to eternal justice. She was degraded; she had a mercenary reputation; and courage was necessary to restore her to honour, and to re-establish logic upon its true foundations.

Let us make a treaty with the partizans of natural right. If *Nature* has made such or such a law, those who cite it with so much confidence, those who have modestly taken upon themselves to be her interpreters, ought to suppose that she had her reasons for making it. Would it not be more certain, more persuasive, and shorter, to give us those reasons directly, than to furnish us with the will of the unknown legislator, as being authority of itself?

It would be proper here, to point out the false paths, through which one is particularly liable to be dragged in deliberative assemblies; (71) personalities, imputations of motive; tediousness; declamation; but what has been said, will suffice for characterizing what is reason, and what is not, under the principle of UTILITY.

All these false modes of reasoning may always be reduced to the one or the other of two false principles. This fundamental distinction is of great utility for giving clearness to ideas, and brevity to language. To be able to refer such or such reasoning to one of two false principles, is to tie up the weeds in a bundle, that they may be cast into the fire.

I shall finish with a general observation. The language of error is always obscure, feeble, and changeable. A great abundance of words only serves to hide the poverty and falsity of ideas. The more the

(71) This our author has done elsewhere, in the *BOOK OF FALLACIES*; they are only referred to here. N.

terms are varied, the more easy it is to lead people astray. The language of truth is uniform and simple: the same ideas, the same terms. All these refer to pleasures and to pains. We avoid all that may hide or intercept that familiar notion.—*From such or such an act, results such or such an impression of pain or pleasure.* Do not trust to me ; trust to experience ; and above all, to your own. *Between two opposite modes of action, would you know to which the preference is due ? Calculate the effects, in good and ill, and decide for that which promises the greatest amount of happiness.*

THE END







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